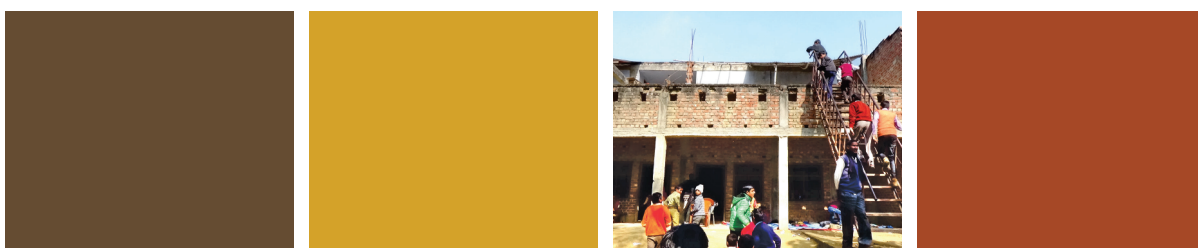




## Status of Low Fee Private Schools: Through the Lens of RTE Act and International Legal Instruments



**NATIONAL COALITION FOR EDUCATION**

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## Foreword

Privatization of education is a great challenge before all of us. We are all aware that privatization has nowhere led to universalization of education in this world. However, in India the enforcement of 'Right of Children to Free and Compulsory Education Act 2009' has almost completed 9 years of journey yet the RTE adherent schools are still below 10%. The news headings regarding exorbitant fee and other charges levied by private schools have got prominent priority. Rampant protests, cases in courts and people's movement against privatization are an eye-opening process in India.

Yet, the realization of justiciable fundamental right to Education is still a far dream in India. Various studies are showing that boys are being sent to Private schools and girls are being pushed to government schools. The unregulated schools are still charging money from students like any other business.

Many states are planning to come out with Fee regulating legislation. But experiences show that in states where this legislation is in place, it is not effective and schools are running benevolently.

The present study "Status of Low Fee Private Schools in India" is an attempt to unearth the ground reality of the so called "Low Fee Private schools" in India. We have taken the states of Maharashtra, Bihar, Uttar Pradesh, Madhya Pradesh and Rajasthan. The findings are very interesting, showing the poor state of governance and enforcement of RTE Act in states and authorities keeping their eyes closed from the grave situation.

We are thankful to our ex colleague, Ms Noopur for compilation of field data, compilation, analysis and bringing the report to this shape. We are also thankful to our partners in these states for their support and help in data collection.

We are thankful to Mr. Rene Raya and ASPBAE team for proving all sorts of support, considerate timeline and standing by us in this initiative.

We would like to show our gratitude to our colleague Ms. Priya Bhakat, Ms. Archana and Mr. Vinod Satve for their coordination in field and partners.

Finally, while we present this report before you, we request your comments, suggestions and critiques to make this initiative a success.



**Rama Kant Rai**  
Convener



**Ram Pal Singh**  
General Secretary



**Jagdambika Pal**  
President







## Acknowledgement

This research was made possible through the support provided by several organisations in various ways. The report is based on the literature available on Low Fee Private Schools and data collected with the help of National Coalition for Education (NCE), India and its NGO partners. The research was conducted in ten districts of five states namely Maharashtra, Bihar, Uttar Pradesh, Madhya Pradesh and Rajasthan. Ten organisations working in their respective geographical area collected data under the supervision of NCE India. Data have been further used for drafting the report. I would like to thank all the organisations which supported the data collection process for the study. I would also like to thank every interviewee that participated in the process. The report was also made possible with the financial support received from Open Society Foundations.

I would like to thank NCE India for giving me the opportunity to be a part of this report and would like to thank its team for being supportive towards its drafting.

It is hoped that this material would be useful for strengthening Civil Society's advocacy towards achieving Right to Education for each child in this country.

**Noopur**



## List of Abbreviations

RTE Act	Right of Children to Free and Compulsory Education
B Ed	Bachelor of Education
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CRC	Convention on Rights of the Child
FGD	Focused Group Discussion
ICESCR	The International Covenant on Economic, Social and Cultural Rights
IHDS	Indian Human Development Index
ILO	International Labour Organisation
LFPS	Low Fee Private Schools
NGO	Non Government Organisation
PPP	Public Private Partnership
TET	Teacher's Eligibility Test
TLM	Teaching Learning Material
UNESCO	United Nations Educational, Scientific and Cultural Organisation



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# Executive Summary

Over the last decade, Low Fee Private Schools have mushroomed in every corner, both rural and urban areas of the country. This has been a phenomenon globally and has generated debates around it. Several studies have been carried out to evaluate the so called 'Low Fee Private Schools' on various aspects. The present study examines these schools in the framework of Right of Children to Free and Compulsory Act, 2009 and also on the International legal instruments. The study was conducted covering ten districts from five states of India namely Bihar, Uttar Pradesh, Rajasthan, Madhya Pradesh and Maharashtra. Objectives of the studies were:

(1) To study the adherence of low fee private schools to the norms laid down in Right of Children to Free and Compulsory Education Act, 2009

(2) To review the literature available regarding the LFPS and evaluate the low fee private schools on the four pillars of education, namely, availability, accessibility, acceptability and adaptability

(3) To study Low Fee Private schools (fit/misfit) in the Human Rights Framework through the literature

(4) To make recommendations based on the findings for proper implementation of the RTE act in context of Low Fee Private Schools.

The findings are drawn from research interviews with the head teachers/managers of LFPS, teachers, parents and children enrolled in Low Fee private schools. Some of the major findings of the study are:

Low Fee Private schools, as claimed by the proponents, cater to the lower strata of the society. However, it was found through the study that majority of children come from the middle income families and the children from the economically and socially marginalised sections cannot afford to study in these schools.

Schools fared very low on the indicators of the RTE Act which schools are mandated to follow. In terms of infrastructure, it was found that the schools did not provide with the basic infrastructure.

It was also found that nearly two third of the students in LFPS were boys and only one third were girls pointing towards the accentuation of disparities within girls and boys. Low Fee Private Schools have failed to promote equity.

Quality of education, which largely depends of the quality of teachers in schools, has also been compromised in LFP schools. It was found that more than 90 percent of teachers in the schools were not qualified as per the criteria of RTE Act and hence were not eligible to teach. Salaries offered in the Low Fee schools is also abysmally low, majority of teachers getting paid below the minimum wage. In fact, appointment of untrained teachers is one of the strong reasons behind the low fees at which the education is offered in these schools. However, this leads to a low quality of education in the schools.

While RTE Act prescribes Continuous and Comprehensive Evaluation system to be implemented in every school up to 8th standard, more than 50 percent of the head teachers/manager are unaware about it and of the people who are aware about it, majority of head teachers do not implement it in their schools. Further when teachers were asked whether they are aware about CCE and have received any training, more than 50 percent of teachers were unaware about the evaluation system and only 3.3 percent of them had received any training. Interview with children also brought out the fact that none of the schools implemented CCE as a system of evaluation.

Low Fee Private schools were evaluated on the basis of few international legal instruments as well and it was found that most of the instruments do not allow space for growth of such institutions which fares low in terms of Availability, Acceptability Accessibility and Adaptability.

It is hoped that the findings and recommendations of the report will be useful in advocating for educational rights of children.



# 1. Introduction

The right to education, characterised as a fundamental right, can be considered an “upstream” right in the sense that it determines whether other rights can actually be exercised. None of our civil, political, economic and social rights can be exercised by individuals unless they have received a certain minimum education, without which their access to such rights remains illusory and theoretical.<sup>1</sup> It is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities. Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth.<sup>2</sup>

The Universal Declaration of Human Rights was adopted by the United Nations General Assembly on 10 December 1948 in its Article 26 asserted education as a human right. The declaration was ratified by India making it obligatory to take actions for its implementation. In 1949, the Constitution of India directed the state to provide education up to the age of 14 years. The 86th Constitutional amendment making education a fundamental right was passed by Parliament in 2002. The Right of Children to Free and Compulsory Education Act, a law to enable the implementation of the fundamental right, was passed by Parliament. Both the Constitutional amendment and the new law came into force from 1st April 2010. The new law makes it obligatory on part of the state governments and local bodies to ensure that every child gets education in a school in the neighbourhood. The Constitution (Eighty-sixth) Amendment Act has now inserted Article 21A in the Constitution which makes education a Fundamental Right for Children in the age group of 6- 14 years by providing that;

*“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 may, by law, determine”.*

The 12th Five year plan period coincided with the period of the implementation of the Right to Education Act (RTE). India is poised to provide quality education to all children in the country irrespective of gender, caste, creed, religion and geographies.

With the RTE coming into force, there is an expectation that this will finally be translated into provision of quality school education for all children. It is the primary responsibility of the Government to ensure implementation of the Act. Being part of the concurrent list, the Central and state governments are both responsible for ensuring effective implementation of the Act.

RTE Act, 2009, a landmark in the history of education in India, universalized elementary education and made it a right of every child towards free and compulsory education. It has defined types of school and has also set norms for every school to adhere to. This Act is seen as a strong instrument to improve the Education in terms of the four A's (available, accessible, acceptable and adaptable).

<sup>1</sup> “The Right to Education: An Analysis of UNESCO’s Standard Setting Instruments”, UNESCO, Paris, 2001, Yves Daudet and Kishore Singh

<sup>2</sup> ISCESCR General Comment No. 13: The Right to Education (Art. 13)

## 1.1 Types of schools in India

There are primarily three types of schools in India, these are government schools, and government aided schools and private schools. Private schools in turn divide into two types: recognized schools and unrecognized schools. It turns out that for understanding the true size of the private schooling sector in India, the distinction between recognized and non-recognized schools is crucial. While government educational data collection exercises are intended to be a census of schools in the country, in fact the focus is majorly on the so called 'recognized' schools.<sup>3</sup> For the past few years data of unrecognised schools are included in the reports, but are still very limited.

## 1.2 Privatisation of Education

UNESCO defines private schools as schools controlled and managed by any type of private entity, a non-government organisation, such as a church, a trade union or a private institution, associations or businesses. Private schools can be either government-dependent or independent of the government. They are privately funded for most of their activities and even though they can receive subsidies from the state, their status remains of a private nature. There are many forms of private institution and they can be philanthropic, 'for-profit', 'low cost' or not-for-profit. Private actors can also be partially linked to the state, which is a common practice, in the form of contractual arrangements or Public Private Partnerships (PPPs).<sup>4</sup> Privatisation signifies a process, which can be defined as the 'transfer of assets, management, functions or responsibilities [relating to education] previously owned or carried out by the State to private actors'.<sup>5</sup> There are a number of ways in which privatisation of education takes place, for example, through Public Private Partnership, Low Fee private schools, schools run by NGOs etc.

Phenomenon of Privatisation of education has been growing exponentially. While few argue about its positive contributions to education in terms of availability, the opponents perceive it as a deterrent to education as a human right. There have been in the past, several discussions and even heated debates over the best approach to universalization of elementary education, and the crux of the debate is whether this can be achieved through a massive expansion of Government-run institutions and reinforcement of Government obligation to provide such education to all, or through allowing the consumers of education to make the choice as to the kind of institution they want to patronize, Government/religious/non-profit/for-profit institution by means of a nation-wide voucher system.<sup>6</sup>

Privatisation of education has its genesis in the education sector strategies of the World Bank, which have stressed since the 1980s the key role of the private sector in education and compelled developing countries to initiate significant cuts under structural adjustments to their public services, including education. The most recent World Bank education strategy, the education sector strategy 2020 (released in 2011), gives increased prominence to private-sector engagement in education; as does the Global Partnership for Education.<sup>7</sup>

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<sup>3</sup>Private And Public Schooling: The Indian Experience, Geeta Gandhi Kingdon University Of Oxford, 2005

<sup>4</sup>Investments in Private Education: Undermining or contributing to the full development of the Human Right to Education? Rolla Moumné Charlotte Saudemont, UNESCO, 2015

<sup>5</sup><http://www.Right-To-Education.Org/Issue-Page/Privatisation-Education>

<sup>6</sup>Private Schools In Indian Elementary Education Role In Universalization, Jayamalathy Sadagopan, 2015

<sup>7</sup>World Bank Education Strategy: Learning for All, World Bank, 2011

### 1.3 Growth of private schooling in India

The rapid increase of private schools can also be witnessed in India. One of the most telling statistics regarding the increase in private schools is the increase in percentage of private schools to the total schools as well as the increase in enrolment in private schools. Another important aspect is also the growing Low Fee Private schools in every nook and corner.

Data from DISE data ( Table 1.1) reveals total share of private schools at national level in year 2014-15 to be 22.74 percent which is an increase from 2013-14 from 22.09 percent. Percentage share of government schools at elementary level has decreased from 75.51 to 74.75 in year 2013-14 and 2014-15 respectively (Table 1.2).Further, percentage enrolment in private management schools have also increased from 35.81 to 37. 21.

**Table 1.1:** Percentage Share of Private Schools to Total Schools

State	Percentage Share of Private schools to Total Schools (2013-14)	Percentage Share of Private schools to Total Schools (2014-15)
Uttar Pradesh	31.16	32.14
Rajasthan	28.15	31.89
Maharashtra	29.25	30
Bihar	2.22d	3.66
Madhya Pradesh	18.67	18.5
National Average	22.09	22.74

Source: Flash Statistics 2013-14, 2014-15,Government of India

**Table 1.2:** Government Share to Total Schools

States/UTs	2013-14	2014-15
Madhya Pradesh	80.12	80.29
Maharashtra	69.98	69.41
Uttar Pradesh	66.89	66.23
Bihar	92.27	89.83
Rajasthan	69.88	65.83
All States	75.51	74.75

Source: Flash Statistics 2013-14, 2014-15,Government of India

**Table 1.3: Percentage Enrolment in Private Management**

States	2013-14	2014-15
Maharashtra	58.07	61.2
Uttar Pradesh	49.18	51.14
Rajasthan	46.31	49.05
Madhya Pradesh	33.58	34.28
Bihar	2.35	3.37
National Average	35.81	37.21

Source: Flash Statistics 2013-14, 2014-15, Government of India

Lack of financial budgets and resources in developing countries are stretched thin, states, including those in many low-income and emerging economies are increasingly looking towards the private sector to fill in the holes. This has led to the worldwide growth of the private schools, which has, not surprisingly, also initiated a policy debate as to whether private schools can foster “Education for all”.<sup>8</sup>

## 1.4 Low Fee Private Schools and Rationale of the Study

Low fees private schools are becoming the new alternative to the public education in many developing countries. India too has not been untouched with this phenomenon and is in fact, amongst the highest growing market for these low fee private schools. Present study examines the status of Low Fee Private Schools in five states of India in the Framework of RTE Act, 2009.

LFPS are schools referred to as ‘budget’ or Low-Fee Private (LFP) schools that are projected as responding to the growing demand of poor families for ‘good quality’ private English medium education. Defining ‘low fee private school’ is difficult. Scholars have put forward various definitions keeping in mind the heterogeneity of such schools. For Prachi Shrivastava “low fee private schools were usually characterized as being independently funded through comparatively lower tuition fees (relative to elite or higher fees private schools) financially sustained through direct payments from poorer or relatively disadvantaged households (though not necessarily the poorest and most disadvantaged), and independently managed by a single owner or team, usually comprising family members.”<sup>9</sup> In other words, LFPSs may be understood as institutions which are privately owned and managed, and an amount of fee is charged which makes it assessable to certain sections or groups. Rose defines low fees private schools as ‘Private or non-state provision of education conducted by a wide variety of actors, which may include ‘NGOs, faith-based organisations, communities and commercially oriented private entrepreneurs (‘edupreneurs’), each

<sup>8</sup>What Explains Gender Gap in Private School Enrolment? Recent Evidence from India, Pushkar Maitra, Sarmistha Pal, Anurag Sharma, 2014

<sup>9</sup>Srivastava P. (2013). Low Free Private Schooling: Issues and Evidences. In Srivastava P. (ed.) Low Fee Private Schooling: Aggravating Equity or Mitigating Disadvantage? Oxford: Symposium Books

with different motives for their involvement in education.<sup>10</sup> The type of private school that is currently mushrooming in India is the small school that is started, owned and run by a private individual, or 'edupreneur', and funded solely out of parental fee payments. According to Härmä, these schools are often run at the lowest possible fee level in order to appeal to as wide market as possible, therefore being referred to as low fee private schools.<sup>11</sup>

LFP schools have been seen as an alternative to the government school in terms of access and providing quality education.<sup>12</sup> Though, *Unnikrishnana vs State of Andhra Pradesh*, Supreme Court of India, 1993 makes it illegal for any school to operate for profit in India, this does not stop many people from doing so, and cloaking their activities in the rhetoric of social service.<sup>13</sup> There are numerous schools, both in urban and rural parts of India, with the sole motive of profit making. One of the biggest proponents of LFPs, Tooley accepts that though profit making is prohibited under the judgment, in practice, this does not seem to encroach upon the actual behavior of the schools except in terms of their reporting of accounts, and, of course, in the associated payment of bribes. Further he agrees that running a school even for low-income families were potentially profitable undertaking with estimated profits of about 25% in the year of recognition.

The commercialization of primary education has created much controversial debates in India and numerous studies have been carried out by scholars to examine these 'for profit' schools under different parameters. However, this study intends to study low fee private schools in the framework of Right of Children to Free and Compulsory Education Act, 2009. This Act, passed in 2009, was a historical step as it made education a right for every child between the age of 6-14 in India. This Act has also set norms, both for private as well as government schools to adhere to and the deadline for implementation of this Act was 31st March, 2013. Under this Act, for a private school to operate, it has to be recognised by the government and the recognition to schools are given only if they abide to all the norms that has been set in the Act. This paper examines the adherence of Low Fee Private Schools to these norms.

The Act has been celebrated as an instrument which has covered the issues of quality by setting a norm for teacher's qualifications, teaching learning process, infrastructure, pupil teacher's ratio etc. The study further explores the quality in Low Fee Private Schools in the framework of RTE Act. Inclusion of children from marginalised section is also an important aspect taken care in the Act, making equity another important indicator to be dealt with in the study.

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<sup>10</sup>Rose P. (2007). Supporting Non-state Providers in Basic Education Service Delivery,(Create Pathways to Access Research Monograph No 4), Brighton: University of Sussex

<sup>11</sup>Härmä, J. (2010),The Limits of Marketisation of Primary Education in India. (Create India Policy Brief 2). Brighton: University of Sussex

<sup>12</sup>Tooley, J., 2001. Serving the needs of the poor: the private education sector in developing countries. In: Hepburn, C. (Ed.), Can the Market Save our Schools?. Vancouver : The Frazer Institute,

<sup>13</sup>Srivastava, P. (2007). Neither voice nor loyalty: School choice and the low-fee private sector in India. (Research Publications Series, Occasional Paper No. 134). New York: National Center for the Study of Privatization in Education, Columbia University

## 2. Methodology

Present section deals with the methodology of the study. It defines the objectives of the study, methods of data collection, sampling and tools used for the purpose of study.

**Objectives:** The objectives of the study are to:

- (1) To study the adherence of low fee private schools to the norms laid down in Right of Children to Free and Compulsory Education Act, 2009
- (2) To review the literature available regarding the LFPS and evaluate the low fee private schools on the four pillars of education, namely, availability, accessibility, acceptability and adaptability
- (3) To study privatisation (fit/misfit) in the Human Rights Framework through the literature and
- (4) To make recommendations based on the findings towards universalization of education.

**Table 2.1:** Sample of the study

Sl. No.	States	Districts	Sample LFPS
1	Madhya Pradesh	Raisen	20
		Bhopal	20
2	Uttar Pradesh	Sitapur	20
		Sonbhadra	20
3	Rajasthan	Udaipur	20
		Alwar	20
4	Bihar	Buxar	20
		Patna	20
5	Maharashtra	Aurangabad	20
		Pune	20
Total			200

### 2.1 Data Sampling of the Study

The study was conducted in the year 2016 covering ten districts from five states of India namely Bihar, Uttar Pradesh, Rajasthan, Madhya Pradesh and Maharashtra.



The above mentioned states were selected based on the large number of out of school children in the northern part of India and also on the availability of partner organisations to support the data collection required for the research. In every state, two districts were randomly chosen. In each district, one block headquarters (urban) and one village in the same block (rural) was randomly selected. A total of twenty low fee private schools in each district, 10 each from urban and rural area, were selected for the study. All the private schools were identified and the schools charging the lowest fees were selected to be in the sample in each village and block. In the villages which were identified for the collection of data where required samples private schools could not be found, the lowest charging school/schools from the neighbouring villages were chosen as the sample. The head teacher/manager of the school, teachers, one child and the child's parents from every school were interviewed. A total of 200 low fee private schools, 200 parents, 200 teachers and 200 children were covered from the low fee private schools.

## **2.2 Tools for Data collection**

Four interview schedules were used: interview schedule for the headmaster/manager, interview schedule parents, interview schedule students and interview schedule teachers of the selected schools.

## **2.2 Process of Data collection**

For conducting the interview, one child from each of the sampled LFP schools was selected randomly. However, the child was selected amongst students from standard 5 to 7 only as younger children would not have been able to respond to the questions appropriately. A parent (either mother/father) of the same child was further interviewed. Teacher were selected on the basis that they were teachers of the same class from which the child had been chosen.

Data were collected by field investigators who were trained in the tools used for collection of data. There were five investigators, one from each state, and they were oriented about the entire study, its objectives and each question in the questionnaire was discussed with them. Since this study was conducted with the help of local NGOs, the investigators were the staff of these NGOs and hence were aware of the context of that particular area. They also participated in the piloting of the study in order to have better understanding of the process by which data had to be collected.

Collecting information from the private schools was found to be difficult as in many cases the private school manager/principals refused to provide information and in some cases didn't even allow access to school premises. However, finding parents and children from the school was not very difficult. Parents, children and teachers were interviewed outside the school with the purpose of creating an environment which would allow the interviewees to express their concerns without hesitation.

## **2.3 Data Analysis**

Since both quantitative and qualitative data were collected in the study, spreadsheets for analyzing the quantitative data were used.

## 3. Low Fee Private Schools: Literature Review

Present chapter reviews the literature available regarding low Fee private Schools. Affordability of LFPS, Quality of Education it offers and Equity angles have been discussed through literature available.

### 3.1 Affordability

It is also important to discuss the definition of affordability that has been proposed in various available literatures. Affordability, as defined by chronic poverty research center, (2005), means that a family should be able to pay for education of their children, and ideally all of their children to the same standard and at the same type of school, without having to excessively restrict spending in other essential areas such as food, medicine or shelter. Schooling is not considered affordable where family must cut severely from these essential areas, or where loans at punitive levels are taken to pay for it.<sup>15</sup> De (2002) in their study accepts that ‘many parents do choose to sacrifice greatly in other areas of essential spending to educate their children, often coping with deprivation as a result.’<sup>16</sup>

Talking about affordability of the LFPSs, Lewin (2007) writes that since these schools charge tuition fees and have other direct and indirect charges makes it unlikely for the poorest and most disadvantaged sections of the society to send their children to these schools.<sup>17</sup> Another research by De, Noronha and Samson (2002), also reiterated that while low fees private schools were accessed in rural and urban India, asset ownership confirmed that private school children came from somewhat better off families.<sup>18</sup> Citing evidences from his study, Joanna Harma (2010) demonstrates the unaffordability of even the lowest fee charging schools to the poorer half of the rural society. ‘These studies thus pose a question on the affordability of these LFPSs to the poorest and most disadvantaged sections of the society.’<sup>19</sup> Even if the parents stretch their budgets and send their children to these schools, the proposition poses a question of sustainability for these families. It has been pointed that ‘some low income parents spend up to 50% of their income on the education of their children. There are still poorer parents, who in spite of their aspirations, ‘cannot afford to’ (Centre for Civil Society, 2011).<sup>20</sup>

<sup>15</sup>Chronic Poverty Research Center, (2005).The Chronic Poverty Report 2004-05. Manchester

<sup>16</sup>De, A., Majumdar, M., Samson, M. & Noronha, C. (2002), Private schools and universal elementary education, in: R. Govinda (Ed.) India education report: a profile of basic education (pp. 131–150). Oxford: Oxford University Press.

<sup>17</sup>Lewin, K. M. (2007). Improving Access, Equity and Transitions in Education : Creating a Research Agenda, (Create Pathways to Access Research Monograph No 1), Brighton: University of Sussex.

<sup>18</sup>De, A., Majumdar, M., Samson, M. & Noronha, C. (2002), Private schools and universal elementary education, in: R. Govinda (Ed.) India education report: a profile of basic education (pp. 131–150). Oxford: Oxford University Press.

<sup>19</sup>Härmä, J. (2010),The Limits of Marketisation of Primary Education in India. (Create India Policy Brief 2). Brighton: University of Sussex.

<sup>20</sup><http://www.schoolchoice.in/faq.php>

Baraka considers that schooling costs should not exceed 4% of the household budget to be considered 'low-fee'.<sup>21</sup> Though there have been studies carried out on Low Fee Private schools, there are still a lot of discrepancies in the findings. One of the most publicized studies was carried out by Tooley who studied low fee private schools in Hyderabad in the beginning of the decade. In his research, Tooley found that low fee schools were run at low cost, with limited infrastructure and poorly paid contractual teachers. He mentions that the low fee charging private schools meet the demand of parents by offering quality education in English medium at a very low fee. Also, parents make a choice to send children to private schools because they perceive that private schools offer better quality education. While Tooley asserts, through his research, that 'low fee private school are the choice of poor as they offer quality education at affordable fee, another study by Harma in (2011), shows that less than one third of the children of unskilled workers attend LFP schools, while 55% of farmer and over three quarters of skilled workers children do not attend LFP schools.<sup>22</sup> The main reason behind parents not enrolling their children in LFP schools was the lack of affordability of the school fee indicating that though Tooley had categorized these schools as 'low fee' the fees are not low enough, at least from the perspective of a large section of the families studied (Harma 2011, cited in Nambissan, 2012).<sup>23</sup> Other scholars have also posed questions on the outcomes of Tooley's research. Geetha Nambissan cites the studies of Rose and Dyer wherein they have questioned Tooley for not defining 'poor' in clear terms.

### 3.2 Quality in Schools

An enormous amount of importance is being given to the quality of education that is offered in the schools and has been discussed as one of the most critical issues of education. The shift from government to private schooling has also been on the account of perceived better quality of education offered by private schools.<sup>24</sup> English medium schooling is often understood as 'good education' by parents, and this has been the mantra used by private education providers. Few researchers also associate higher quality of education in private school with its lower pupil teacher ratio. Aside from the teacher-pupil ratio, commonly-used indicators of school quality include teacher salaries, teacher experience or training, expenditure per pupil, and various indicators of physical infrastructure. In the Indian context; however, there is a case for focusing on a different list of school-quality variables (Dreze and Kingdon, 1999).

The most critical issue in schooling today is that of quality. As has been highlighted by budget school advocacy, it is because of aspirations for 'quality' education variously perceived by different social classes that there has been a shift from government to private schooling. English-medium schooling is often equated with 'good education' by low-income parents, a fact exploited by players in the private sector who are advocating low-cost schools for them.<sup>25</sup>

<sup>21</sup>Barakat, S., Hardman, F., Rohwerder, B., and Rzeszut, K., (2012) Low-Cost Private Schools in Afghanistan and Pakistan: What evidence to support sustainable scale-up?: Protocol. London: EPPI-Centre, Social Science Research Unit, Institute of Education, University of London,

<sup>22</sup>Härmä J. (2011), Low cost private schooling in India: Is it pro poor and equitable? International Journal of Educational Development, volume: 31, 350–356.

<sup>23</sup>Nambissan, G. B. (2012). Private Schools for the Poor: Business as Usual? Economic & Political Weekly, xlvii(41), 51–58.

<sup>24</sup>Ibid p.14

<sup>25</sup>Low-Cost Private Schools for the Poor in India Some Reflections, Geetha B. Nambissan, 2012

Karthik Murlidharan and Michael Kremer (2008), in a survey of rural schools in some states of India, have highlighted higher teacher attendance and greater teacher activity in private as compared to government schools as indicators of better teaching quality. Even if we accept that the Pupil Teacher Ratio and teachers' presence in the classroom are better in private schools, the quality of teachers themselves is an issue of concern.

Most of the scholars are in agreement that to reduce costs, private players are appointing untrained, less qualified teachers on contract basis with meager salaries thus raising doubts on the quality of teaching-learning process in low fee schools. Nambissan mentions the fact that studies are silent about the quality of teaching learning process in low cost schools.<sup>27</sup> The teacher, target of budget school advocacy and for making such schools cost effective, has also received inadequate attention. She writes, 'teachers are largely untrained, an increasing number whose basic qualifications are barely beyond secondary/higher secondary school. They are on contract and their salaries are minimal and linked to classroom presence.'

De et al's (2002) study in Haryana, Rajasthan and Uttar Pradesh found that low levels of school income in low fee private schools led to poorly qualified and poorly paid teaching staff.<sup>28</sup> Similarly, in her study of recognized and unrecognized private unaided schools in 10 villages in Uttar Pradesh, Harma (2009) found that 'none of the teachers were trained, that only 34% had secondary schooling, and that they received salaries only up to one-tenth of those in government schools.'<sup>29</sup> Nambissan, citing Lall's study, mentions that teachers in Lall's study were mainly young women for whom teaching was a 'time-pass' activity, a stepping stone to some other vocation and not a career in itself.

Lall (2000) observed primary classrooms in the 10 'small fee' private schools that she studied in Jaipur city in 2000. Her report provides some descriptions of curriculum transactions and teacher-student relations in these schools. Unlike what Tooley has described, in none of the schools was the pedagogy anything more than reading from the text and copying of answers by children from the textbook into their notebooks with copious amounts of unfinished lessons given as homework. Teachers in these schools lacked training and as mentioned did not see teaching as a career, but a temporary activity. Teachers who were not equipped to teach first and second generation of school goers and were not competent in the English language had to meet the high expectations of school managers who were competing for students and parents who wanted to see some signs of learning and speaking English in their children. Working under pressure, it is not surprising that corporal punishment was reportedly frequent when children did not meet their teachers' expectations. Anwar acknowledges that 'in some low cost schools (not his) teachers are so under qualified, that they cannot speak in English let alone teach in English one of the biggest attractions for parents in the lower income segment' (Garg 2011: 31).

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<sup>27</sup>Ibid p15

<sup>28</sup>Härmä, J. (2009). Can choice promote Education for All ? Evidence from growth in private primary schooling in India. *Compare: A Journal of Comparative and International Education*, 39(2), 151–165. doi:10.1080/03057920902750400

<sup>29</sup>Nambissan, G. B. (2012). Private Schools for the Poor: Business as Usual? *Economic & Political Weekly*, xlvii(41), 51–58.

Prachi Srivastava too highlights a very important concern related with teachers of low fee private schools. She writes, ‘approaching quality education from an integrated social justice approach would have to ensure that not only are the children from disadvantaged backgrounds provided with equitable basic resources, a key component of which consists of teachers, but also that teachers’ basic rights of fair wages are protected.’<sup>31</sup> Srivastava found that head teachers and managers were often neglectful about quality matters, expressing disdain for the views and suggestions of their own teachers and clients alike. Dreze and Gazdar too found that ‘private school teachers are poorly trained’. (Harma, 2011).<sup>32</sup>

### 3.3 Equity

Equity is a serious concern where basic services are to be delivered through market. (Hirschman, 1978).<sup>33</sup> Maitra (2011) found the gender gap in private school enrolment in India was twice as large as that in public schools, worse among younger children and increasing over time in rural areas. Where found, gender inequality in private school enrolment is typically attributed to a selection bias towards boys—that is, low-resource households that cannot afford to send all of their children to private schools choose to enroll boys over girls (McLoughlin, 2013).<sup>34</sup> Macro level data indicate that going to a private school is a mark of social privilege and that, for example, rural Schedule Caste females are very unlikely to find themselves in a private schools (De, Norhona and Samson, 2002).<sup>35</sup> These finding brings out ‘equity’ as a matter of serious concern in the low fee private schools.

Private education has historically been seen as the preserve of the privileged, making it an unlikely avenue for achieving social justice by ensuring the schooling opportunities for the poor that are a widely acknowledged factor in people’s ability to make a better life (Harma, 2013).<sup>36</sup> While in India, scheduled caste, scheduled tribe, muslim and girls could be seen as historically underprivileged, both socially and economically, it is important to find out how much are low fee private schools accessible to children coming from such background and compare it to government schools.

It has also been found that while parents prefer to send their girls to government schools, possible they would rather send their boys to the private ones (Santosh Mehrotra and Parthasarathi R. Panchamukhi, 2007),<sup>37</sup> raising question on the equity and inclusiveness of low fee private schools.

There is a bi-directional relationship between economic development and women’s empowerment defined as improving the ability of women to access the constituents of development—in particular health, education, earning opportunities, rights, and political participation. In one direction, development alone can

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<sup>31</sup>Ibid p15

<sup>32</sup>Härmä J. (2011), Low cost private schooling in India: Is it pro poor and equitable?, *International Journal of Educational Development*, volume: 31, 350–356

<sup>33</sup>Hirschman, A.O. 1970. *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States*. Cambridge, MA: Harvard University Press

<sup>34</sup>McLoughlin, C. (2013). *Low-cost private schools: Evidence, approaches and emerging issues*, London: Economic and Private Sector PEAKS. Retrieved from [http://www.enterprise-development.org/wp-content/uploads/Low-cost\\_private\\_schools.pdf](http://www.enterprise-development.org/wp-content/uploads/Low-cost_private_schools.pdf)

<sup>35</sup>Ibid p 16

<sup>36</sup>Härmä, J. (2013). Access or quality ? Why do families living in slums choose low-cost private schools in Lagos , Nigeria ? *Oxford Review of Education*, 39(4), 548–566. doi:10.1080/03054985.2013.825984

<sup>37</sup>Mehrotra, S., & Panchamukhi, P. R. (2006). Private provision of elementary education in India : findings of a survey in eight states. *Compare: A Journal of Comparative and International Education*, 36(4), 421–442. doi:10.1080/03057920601024883

play a major role in driving down inequality between men and women; in the other direction, continuing discrimination against women can, as Amartya Sen has forcefully argued, hinder development.<sup>38</sup> The 2005 India Human Development Survey (IHDS2) data for 7 – 18 year old children highlight the extent of female disadvantage in private school enrolment in Indian's. There are some exceptions too, e.g., see Beegle and Newhouse (2006), Chudgar and Quin (2012) emerging economy.<sup>39</sup>

Kelly et al (as referred in Education International's report) found caste to be the most significant predictor of schools type, demonstrating consistent association with the type of schools attended across different schooling level. More specifically they found 'those from traditionally marginalised groups were 10 times more likely to attend government schools.'<sup>40</sup>

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<sup>38</sup>Women's Empowerment And Economic Development Esther Duflo Working Paper 17702, National Bureau Of Economic Research, December 2011

<sup>39</sup>What Explains Gender Gap In Private School Enrolment? Recent Evidence From India, Pushkar Maitra, Sarmistha Pal, Anurag Sharma, 2014

<sup>40</sup>Profiting from the Poor; The emergence of Multinational Edu Business in Hyderabad, India, Education International, 2016



## 4. Analysis and Findings

Present chapter deals with analysis of data which were collected from 10 districts of five states namely Bihar, Rajasthan, Madhya Pradesh, Uttar Pradesh and Maharashtra. Total of 200 Head teachers/managers of Low Fee Private Schools, 200 Parents sending children to private schools, 200 teachers and 200 children were interviewed. However, in several sections, not all the interviewees have responded to all the questions and therefore analysis have point percentage as well and not just a whole figure. Findings have been discussed in the light of provisions of RTE Act and its rules. Some data has also been discussed outside the framework of Act to understand the experiences of parents, children and teachers in low fee private schools.

### 4.1 Interview with Head Teachers/Managers

#### 4.1a Registration of School

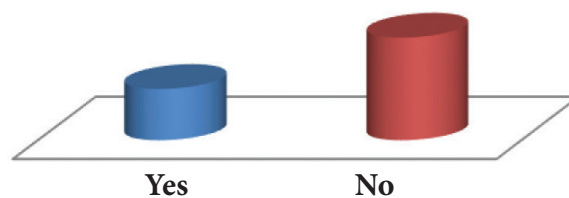
RTE Act mandates every school to register itself. Schools without registrations are not to be considered schools; Act makes it an illegal institution. Data reveals that 86.7 percent of the schools did were not registered. 5 percent of the head teachers/managers responded that their schools' registration is under process; while 8.3 percent of them informed that their schools are registered.

**Table 4.1:** Registration of School

Response	Yes	No	Under process
Percentage	8.3	86.7	5.0

#### 4.1b Awareness Regarding RTE Act

**Figure 4.2 : Awareness Regarding RTE Act's provision of 25 percent reservation**



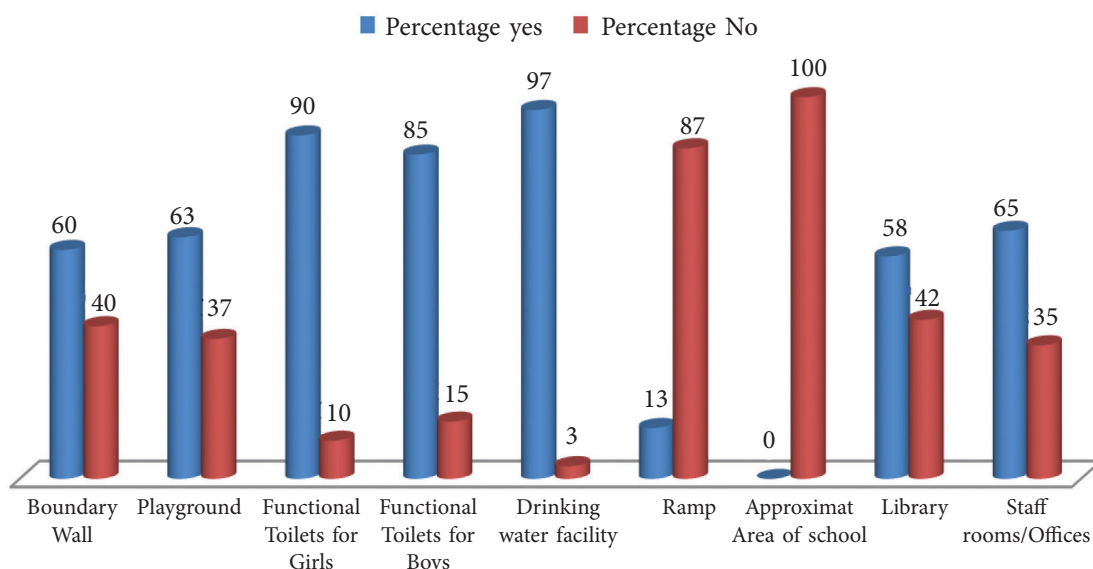
Section 12 of the RTE requires private unaided schools to reserve 25 per cent seats in the entry-level class (nursery or Class I) for socially disadvantaged and economically weaker sections. The government would provide private schools with reimbursements equal to their fees or the per student cost in government schools, whichever is lower.<sup>41</sup> When enquired about the awareness of this provision, 52 percent of the

<sup>41</sup>Private Initiative in India's Education Miracle, Parth J. Shah and Luis Miranda

Head Teachers/Managers were unaware about the provision. However, even if awareness was high, most of schools do not require abiding by the rule as most of them are not registered and hence cannot demand for any reimbursement.

#### 4.1c Infrastructure

**Figure 4.3: Infrastructure**



Infrastructure of the schools is also an important indicator for providing quality education and this has been proved time and again by various studies that have been carried out. Present study also focussed on the infrastructure of Low Fee Private Schools. Indicators taken for the purpose of present study are in line with the mandatory indicators in the Right to Education Act. It was found that 40 percent of the schools did not have boundary wall for its premises. Not having a boundary wall makes it unsafe for children to attend schools.

37 percent of the schools did not have a playground. It was also found that 10 percent of schools did not have functional toilet for girls while 15 percent of schools did not have functional toilets for boys. While interviewing children, it was also found that many girls have to face problem in their schools due to unavailability of separate toilets. Few children reported that even when there are toilets in schools, they are unkempt and not in condition to be used.

With regards to drinking water facilities in schools, 97 percent of the schools have it while 3 percent of schools do not have the facility.

While need for inclusive schools have been voiced as one of the most important agenda for achieving quality education for all, 87 percent of schools did not have the basic facility of ramp making them inaccessible to the differently able children. Facilities of Library and staff room were not available in 42

and 35 percent of schools respectively. This segregation affects marginalised groups in particular, such as children with special needs, as for-profit private schools have little interest in enrolling them because of the extra teaching support required. Private schools may only enrol children with special needs if they are required to by enforced regulations. Compounded by socio-economic factors, specifically inadequacy of household income and a high cost of schooling, families tend to give priority to boys, particularly in relation to private fee-based schools.

4.1d Teachers' Profile

India adopted the SDG and agreed to related Education 2030 agenda and the Framework for Action that translates the education goal and targets into concrete strategies for implementation. The targets clearly acknowledged the importance of trained teachers for achieving quality education. UNESCO commits to ensure that teachers and educators are empowered, adequately recruited, well trained, professionally qualifies, motivated and supported within well resources, efficient and effectively governed systems.<sup>43</sup> Present section examines the status of teachers in low fee private schools.

Figure reveals that 44.9 percent of the teachers in the 200 schools under the study were male while 55.1 percent of them were females. Several researches have shown this trend. Though the trend is appreciable but the reason behind this bias is disappointing. In private schools head teachers/management find it easier to put pressure of female teachers as compared to male teachers. Female teachers generally do not question when the orders are given by the management.

Figure 4.4: Teachers profile

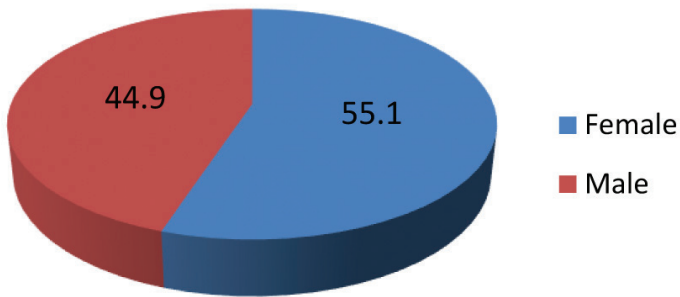
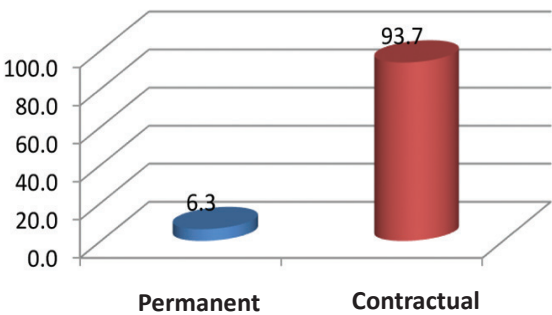
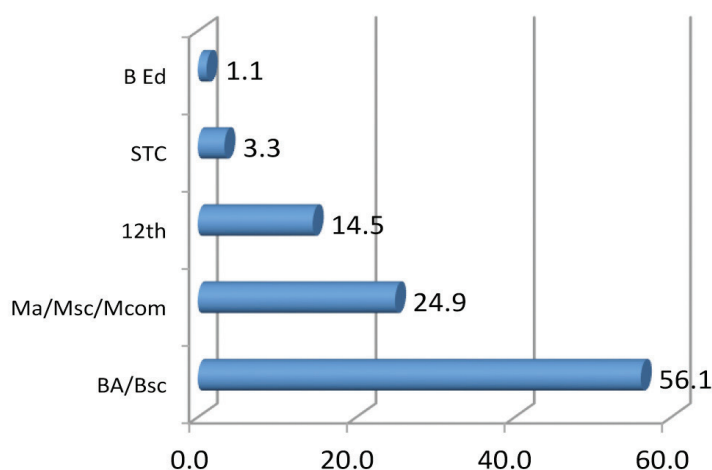


Figure 4.5: Type of employment: Contractual/Permanent



Several studies have pointed towards the exploitative environment that private schools offer to their teacher and one of the indicator is that of the contractual format of employment. It was found in the study that 93.7 percent of the teachers from 200 surveyed schools were contractual while 6.3 of them were permanent. It's easier to control the teachers in instances where teachers would raise their voice against the management. In interview with teachers it was found that teachers do fear in questioning the management as they are under the constant threat of losing their job.

<sup>43</sup>Profiting from Poor, Education International, 2016

**Figure 4.6 : Educational Qualification**

RTE Act mandates schools to appoint teachers who have completed their Bachelors in Education (B Ed) and have passed Teachers' eligibility test (TET) if being appointed after the enactment of the RTE Act. As evident from Figure only 1.1 percent of the teachers surveyed had passed B Ed. while 56.1 percent of the teachers had completed their graduation in Arts or Science, 24.9 of them had master degree. Data also reveals that 14.5 percent of the teachers surveyed from 200 schools had just cleared their 12th examinations.

Graph depicts the number of teachers appointed after the enactment of the act and have passed TET, which as mentioned earlier are required to pass TET for their appointment in any school.

**Table 4.7: Year of Recruitment: Before and After 2010**

Year	Number of teachers	Percentage
After 2010	957	76.7
Before 2010	291	23.3
Total	1248	100

**Table 4.8: Passed TET**

	Yes	No	Total
Number of Teachers	49	908.0	957.0
Percentage	5.1	94.9	100.0

Table reveals that out of 1248 teachers under this study, 957 (76.7 percent) have been recruited after 2010 which means they are required to pass TET in order to be eligible to teach in schools. Data shows that 94.9 percent of the teachers recruited after 2010 have not passed TET.

**Table 4.9: Salary of Teachers in LFPS**

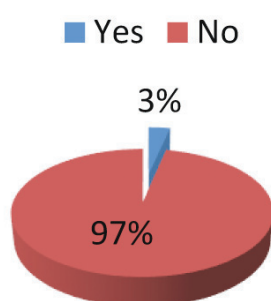
Salary	Below 1000	1000-3000	3001-5000	5001-7000	7001-9000	9000 above	Total
Number of teachers	63	399	204	108	12	18	804
Percentage	7.84	49.6	25.4	13.4	1.5	2.2	100

Salaries of teachers in private schools have also been an area of discussion amongst the researchers on Low Fee Private Schools.

Data reveals that 49.6 percent of the teachers received salaries between Rs. 1000-3000 per month. 25.4 percent of them received salaries between 3001-5000 while 13.4 of them received 5001-9000. 7.84 percent of teachers also received salaries below Rs. 1000, which was majorly in rural areas.

Low Fee Private schools pay teachers far below the minimum wage prescribed and is presented as the reason behind low maintenance cost of schools which in turn leads to low fees. However, it raises

**Figure 4.10: Provision of In service training**



two pertinent questions. First, regarding the untrained teachers being appointed in schools as trained teachers who are eligible to teach in schools demand for higher salaries and therefore schools are unable to recruit them. Recruiting trained teachers will lead to higher running cost for schools which in turn will lead to higher fees making schools unaffordable to students. Another aspect is that about the exploitation faced by teachers by being paid less than the prescribed minimum wage. During interviews, few teachers mentioned

about the issue of not being paid for the months in which schools remain close.

In-service training of teachers have been an integral part of teachers' education and training policies and practices in India. It helps support teacher in continuously improving their teaching efforts in schools. RTE Act also mentions about the importance of in-service training. However, data from the LFP schools (interview with the head teachers) reveals that 97 percent of teachers have not received in service training.

**Table: 4.11**

Requirement of Training	Percentage
YES	78.33
No	21.67

Further enquiry about the in-service training with the teachers brought out that 78.3 percent of teachers believe that the training is required while 21.6 percent of them perceive in service training as not much required.

## 4.1 e Evaluation System in LFPS

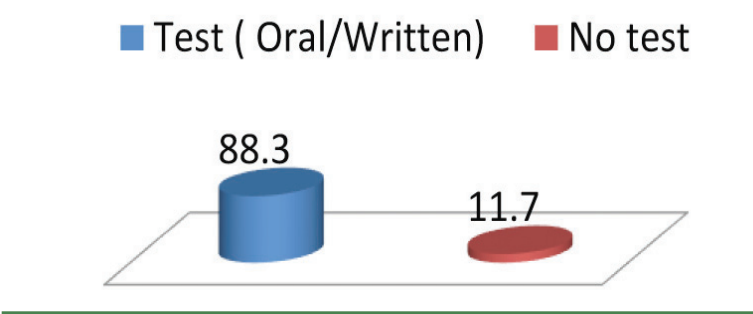
**Table 4.12: Awareness and Implementation of CCE**

	Percentage yes	Percentage No
Are you aware of CCE	31.7	68.3
If yes do you undertake CCE	8.3	91.7

Section 29 of the RTE Act directs the schools to undertake Continuous and Comprehensive Evaluation rather than the earlier system of examination which promoted rote learning. On this pretext, head teachers were asked whether they are aware about the evaluation system. Only 31 percent of the head teachers of schools were aware about it. Further, teachers who were aware about it were asked if they implement it in their schools. 91.7 percent of teachers replied that they do not implement CCE as an evaluation system in their schools.

A total of 200 parents from 10 districts of five states were interviewed. Present section deals with their responses regarding different aspect.

**Figure 4.13: Process of admission**

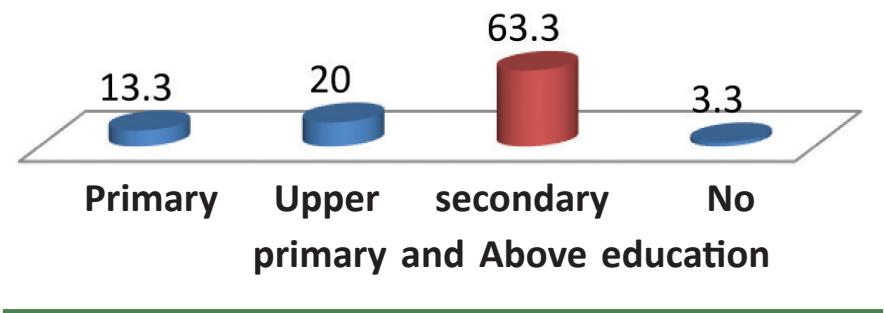


While RTE Act restricts schools for giving any test to children for admission, it was found that 88.1 percent of schools conducted admission test either oral or written, while only 11.7 percent of schools gave admission to students without any test.

**4.2 Interview with Parents**

**4.2a Parents Profile**

**Figure 4.14: Parents' Educational Level**

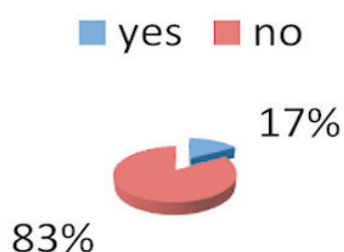


Discussion whether LFPS are schools which cater to the poorest section of the society has been around for a while. While Government schools are attended by children coming from the family of first generation



learners, it was found that parents sending their children to Low Fee Private Schools have attended school to various levels. It was found that only 3.3 percent of the parents were uneducated. 63.3 percent of parents had attended school up to secondary and above while 20 percent of them attended upper primary, 13.3 percent attended till primary level. This also points towards the fact that these parents must be from a better off families as compared to children attending government school. It point towards the fact that these schools do not cater to the most marginalised sections.

**Figure 4.15: Employment Status of parents**



Data further reveals that 83 percent of parents who send their children to LFPS are not daily wage labourers.

**Table 4.15: Facilities available at home**

Facilities	Yes	No
Land	53.3	46.7
B.P.L	20.0	80.0
Any vehicle (cycle, two wheeler, four wheeler )	81.7	18.3
Gas connection	83.3	16.7
Electricity connection	76.7	23.3
Pakka House	91.7	8.3

To understand the economic condition of parents sending their children to private schools, they were asked about the availability of amenities at home. Data reveals that only 20 percent of parents sending their children to LFPS come from the category of Below Poverty Line and 80 percent of them do not belong to the category. It was further found that 81.7 percent of them have some vehicle at their home (while most of them had a motor bike, few had cycle and car as well), 83.3 percent of them have gas connection and 91.7 percent of them have a pakka house. These data also direct towards the better off economic conditions of the families.

**Table 4.17: Family Size**

Family size	Number of Families
Three or less	25
Four to six	145
Seven to eight	30
Eight and above	0

Research point towards that number of people in family also acts as a factor in decision of parents while choosing to send their children to private schools. It was found that 145 out of 200 families consisted of four to six members. 25 families consisted of three to four members and 30 families out of 200 had more than seven family members.

## 4.2b Gender Discrimination

There is also a statistically significant greater pro-male gender skew in private schools.<sup>44</sup> Present study also points towards this gender biasness against females. It was found that 35 percent of children were females while 65 percent of them were males.

De et al also point towards the bias ‘which was even stronger in rural areas with the majority of girls in government schools and most boys in private schools.’<sup>45</sup>

Other studies have also found that after controlling for various observable and unobservable characteristics that may influence private school enrolment; there is a strong evidence of significant gender bias against girls in private school enrolment, which varies across the Indian regions.<sup>46</sup>

## 4.2c Expenditure for LFPS

**Table 4.18: Monthly School Fee**

	Total	Rural	Urban
Below 100/month	49	41	8
100-200/month	37	32	5
200-400/month	52	23	29
400-600/month	52	2	50
600-800/month	10	2	8
	200	100	100

<sup>44</sup>Private and public schooling: The Indian experience, Geeta Gandhi Kingdon University of Oxford,2005

<sup>45</sup>Private Schools for Less Privileged : Some Insights from a Case Study, Anuradha De, Claire Noronha, Meera Samson, EPW,2002

<sup>46</sup>What Explains Gender Gap in Private School Enrolment? Recent Evidence from India, Pushkar Maitra, Sarmistha Pal, Anurag Sharma, 2014

Data reveals that 49 out of 200 schools charged less than 100rs a month as fee. 37 schools charged Rs 100-200 a month, of which 32 were from rural area. 52 schools, of which 50 from urban and 2 from rural area charged Rs 400-600 monthly as fee. Further 52 schools charged Rs 200-400 monthly of which 23 were from rural and 29 from urban. 10 schools, 2 from rural and 8 from urban charged more than 600 a month.

While children belonging to backward castes are not particularly less likely to be enrolled in school (compared to the overall sample average), private school enrolment rates of children who belong to backwards castes is significantly lower. This is possibly a reflection of income constraints – households belonging to backward castes are typically poorer and more resource constrained. Second, both total enrolment rates and private school enrolment rates are monotonically increasing over expenditure quantiles and this is true for both boys and girls; unfortunately pro-male bias in private school enrolment increases monotonically as we move up from the lowest to the highest expenditure quartile.<sup>47</sup>

**Table 4.19: Expenses other than Fees**

	Rajasthan	Uttar Pradesh	Bihar	Madhya Pradesh	Maharashtra
Rural	2700	2815	3120	3200	3400
Urban	4500	4775	5100	4950	5400

Expenses other than direct fee incurred by parents sending their children to Low Fee Private Schools were also enquired about. The expenses other than fee incurred by parents in five states under the study were almost similar. However, the expenses in rural and urban were significantly different from one another. In Rajasthan while parents from rural area incurred 2700 yearly, in urban areas, it was 4500. Similarly, in Uttar Pradesh expenses incurred per year by parents in rural was Rs 2815 and in Urban was Rs 4775.

## 4.2d Parents Perspective on Private Education

**Table 4.20: Reason for sending children to Private School**

	Strong	Average	Weak	No reply
Quality of education	53.3	8.3	6.7	31.7
Number of teachers	41.7	21.7	8.3	28.3
Teacher punishes children which make students study better	10.0	30.0	31.7	28.3
Better infrastructure	28.3	28.3	15.0	28.3
Distance at which the school is located	45.0	15.0	8.3	31.7
As others say that private is better	25.0	13.3	28.3	33.3
Qualification of Teachers	43.3	21.7	0.0	35.0
English medium	59.3	5.7	0.0	35.0
Other co-curricular activity	41.7	15.0	15.0	28.3
Discipline	43.3	8.3	11.7	36.7

<sup>47</sup>What Explains Gender Gap in Private School Enrolment? Recent Evidence from India, Pushkar Maitra, Sarmistha Pal, Anurag Sharma, 2014

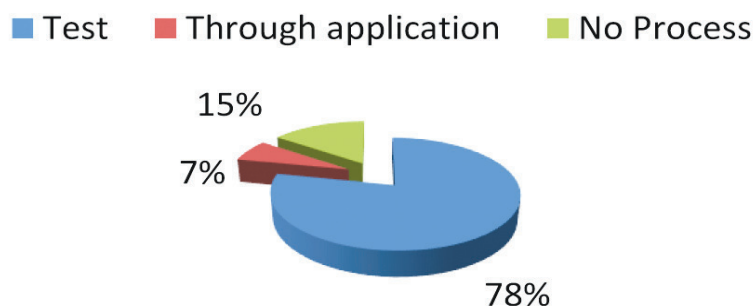
Table depicts reasons for sending children to private school enquired from parents during the study. Number of teachers was perceived as a strong reason by 41.7 percent of parents for sending their children to private school. While 21.7 percent of them saw it as an average reason and for 8.3 percent of parents it was not a reason for sending children to private school. 53 percent of parents replied quality of education as a strong reason for sending their children to private schools. Better infrastructure was also perceived as a strong reason by 28.3 percent parents and average reason for 28.3 percent parents as well. Distance from school was given as a strong reason by 45 percent parents while an average reason for 15 percent of parents. Interestingly, 25 percent of parents admitted children in private because others said that it was better. 43.3 percent of parents perceive qualification of teachers as a strong reason for sending children. However, as seen earlier in the report, more than 90 percent of teachers do not have required qualifications for teaching.

59.3 percent of the parents responded English as a strong reason for choosing private school, while 5.7 percent responded it as an average reason. 35 percent of parents did not respond. The aspiration for English-medium instruction among low income parents has been highlighted by pro-LFP school proponents as a key factor that drives the demand for low-cost schooling. This is largely because of the linkages they draw between the knowledge of English, middle-class jobs, social distinction, and elite status. The fact that government schools impart education in the regional language makes them less attractive than private schools that advertise themselves as 'English medium'.<sup>48</sup> De points out that in fact, much time is devoted to English teaching – the showpiece of private schools, again it appears, through rote learning, grammatical exercises, etc. In spite of pre primary schooling for two to three years many children were lost in the maze of movement from government to private or even from private to private school.<sup>49</sup>

Co curricular activities and discipline were also responded as a strong factor for choosing private school by 41.7 and 43.3 percent of parents. When asked by parents to respond on what they understand by discipline, many of them responded that teachers are very strict with children and therefore there is no space for children to be indisciplined. Few parents also added that indisciplined children get hit by teachers and hence students are scared to create trouble.

#### 4.2e Admission Process

**Figure 4. 21: Admission Process**



<sup>48</sup>Low-Cost Private Schools for the Poor in India Some Reflections, Geetha B. Nambissan, 2012

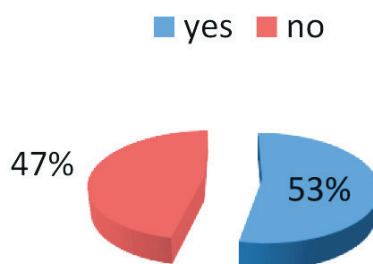
<sup>49</sup>Private Schools for Less Privileged : Some Insights from a Case Study, Anuradha De, Claire Noronha, Meera Samson, EPW, 2002

Parents were also asked about the process of admission undertaken by LFPS. Data reveals that 78 percent of schools admitted children through written test while 7 percent through the application form. 15 percent of schools admitted children without any selection process.

As mentioned earlier, RTE Act restricts schools from conducting any admission test but most LFPS do conduct test for admission.

#### 4.2f Awareness about RTE

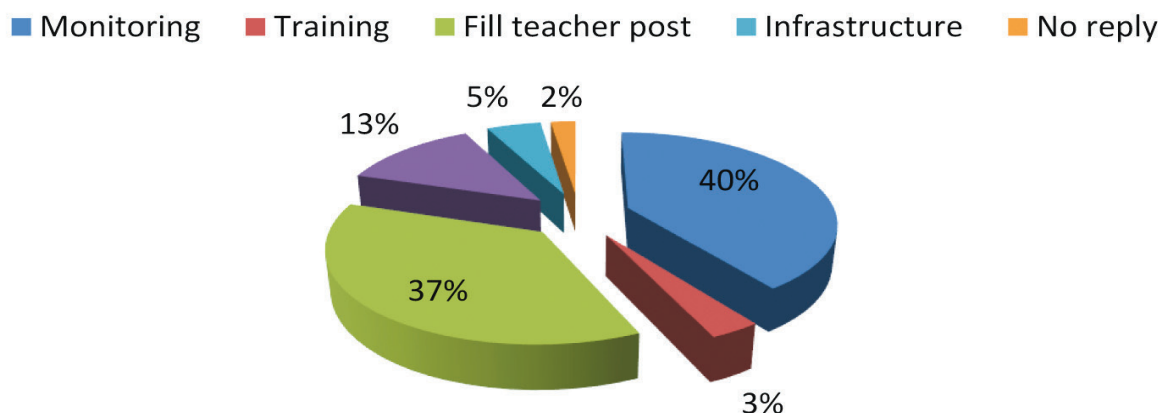
**Figure 4.22: Awareness about RTE**



It has been more than 7 years since the enactment of RTE Act. However, there is still lack of awareness amongst parents regarding the provisions. This lack of awareness leads to dilution of their voice for better education as their child's fundamental right. It was found that 47 percent of the parents were absolutely unaware about the provisions of the Act.

#### 4.2g: Suggestion for better functioning of Schools

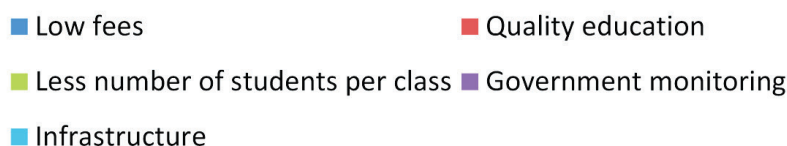
**Figure 4.23: Suggestion for Better Functioning of Government Schools**



Parents were asked to give suggestions for improving the functioning of government schools. 40 percent of parents suggested stronger monitoring by government for better functioning. Further, 37 percent

suggested filling of the vacant post of teachers. Another 13 percent suggested that conveyance from home to school should be provided. Earlier as well, it was seen as a strong reason by several parents for choosing LFPS. 5 percent of parents suggested better infrastructure while another 3 percent suggested training of teachers. 2 percent of the respondents did not suggest anything.

**Figure 4.24: Suggestions for better functioning of private schools**

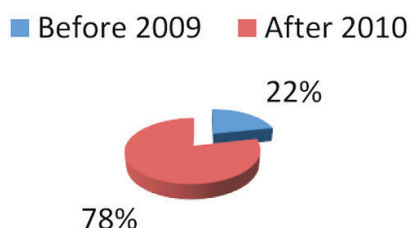


Parents were also asked to provide with suggestion for better functioning of private schools. As high as 70 percent of the respondents suggested lower fees while 10 percent each suggested government monitoring and infrastructure for better functioning. 7 percent and 3 percent suggested less number of students in classroom and quality education in their responses respectively.

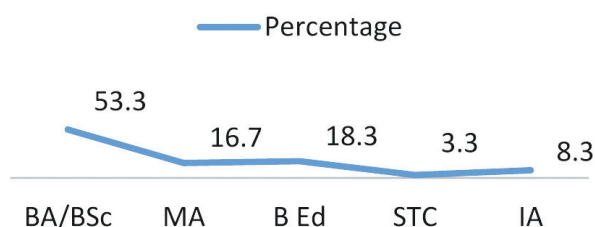
## 4.3 Interview with Teachers

### 4.3a: Teachers' Profile

**Figure 4.25: Year of Recruitment of Teachers**



**Figure 4.26: Educational Qualification of teachers**



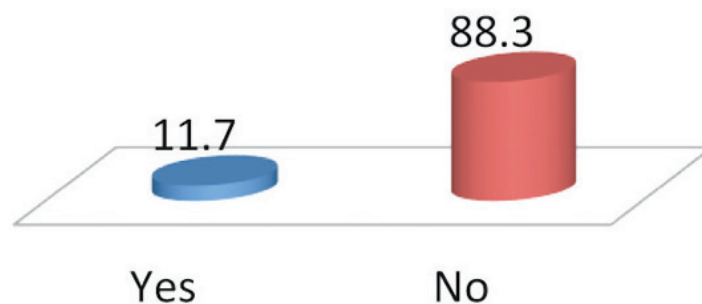
Study also interviewed 200 teachers from 10 districts. Data reveals that 18.3 percent of teachers interviewed have B Ed as their educational qualification while 53.3 percent have BA/BSc. 8.3 percent of 200 teachers interviewed were 12th pass. 16.7 percent of teachers had MA/MSc as their educational qualification. Various studies points towards the possibility that many deprived children are exposed to barely competent teaching.<sup>50</sup> Lall's study also found that the teachers were mainly young women for whom

<sup>50</sup>Private Schools for Less Privileged : Some Insights from a Case Study, Anuradha De, Claire Noronha, Meera Samson, EPW, 2002

teaching was a ‘time pass’ activity, a stepping stone to some other vocation and not a career in itself. While teachers were mainly graduates, there were some who had passed secondary school. Very few were trained teachers. They were paid very low monthly salaries, ranging from `400–2,000, the latter likely in higher classes, and for teaching specific subjects.

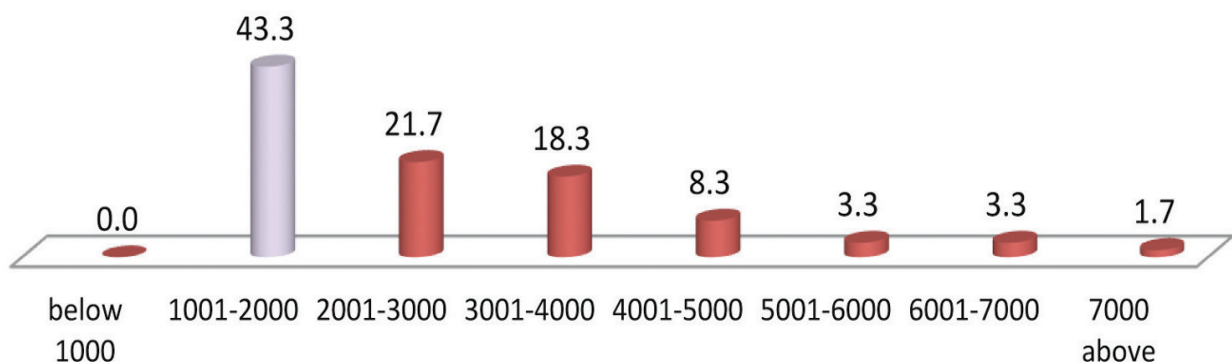
Further, teachers were also enquired whether about their year of recruitment. Responses show that 78 percent of teachers were appointed after 2010. Teachers were also asked whether they have a contract from school to which 88.3 percent of teacher replied no. Here it is important to mention that if there are no contracts, it would mean that there appointment would not be considered before 2010. This in turn would require them to pass TET for being an eligible teacher.

**Figure 4.27:Teaching Contract from School**



When enquired about having passed TET, only 15 percent of the teachers who were recruited after 2010 informed to have passed TET, which makes rest 85 percent not eligible to teach.

**Figure 4.28: Salary of Teachers**





## Teachers and their working conditions

Education and training of teachers, both initially during the preparation and with ongoing professional development are essential for the quality education. The key parameter that separates LFPS to others is the hiring of untrained teachers. This compromises with the quality of education which is in violation of the national and international labour laws, particularly, the UNESCO regulations governing the status of teachers.<sup>51</sup> Lack of accountability of private schools and their staff is also a problem which needs attention. Teachers are hired at low salaries to keep the cost of running the school low.

In private schools, salaries account for a much lower proportion of total spending than in government and aided schools. Private schools pay teachers market clearing wages whereas government and aided schools pay teachers much higher, government-prescribed, minimum wages.<sup>52</sup>

To validate the data provided by head teachers regarding the salary of teachers in school, teachers were also enquired about their salary. Data reveals that 43 percent of teachers received salary between Rs. 1000-2000 a month. Another 21.7 percent of them received salary of 2001-3000 per month. 18.3 percent received salary of 3001-4000 while another 3.3 percent received 5001-6000 per month. As mentioned earlier, salary of high proportion of teachers is much below the minimum wage prescribed the government. Muralidharan and Kremer (2006) argue that the single most distinguishing feature of the private schools in rural India is that they pay much lower salaries to teachers than the government schools. This allows the private schools to hire more teachers, thus ensuring a lower pupil-teacher ratio than state schools and hence better performance. However, hiring at lower salaries leads to compromising with the quality of teachers. Presence of untrained teachers has been brought to notice time and again.

### 4.3b: Perspective of Teachers on Private Education

**Table 4.29:** Reasons for Better Performance of Children in Private Schools

Reasons	Strong	Average	Weak	Total Percentage
Teachers are not involved in non teaching activities	85	11.67	3.3	100
Family background of children	16.6	75	8.3	100
Facilities (library, games and sports)	43.3	51.67	5	100
TLM	48.3	45	6.6	100
Better Management	83.3	16.67	0	100
Proper PTR	71.6	25	3.3	100
Regular attendance of children	91.6	8.34	0	100
Tests at regular intervals	75	21.7	3.3	100
Parents awareness	36.6	46.7	16.7	100

<sup>51</sup>Profiting From Poor: The Emergence of Multinational edu Business in Hyderabad, India, Education International

<sup>52</sup>Private and public schooling: The Indian experience, Geeta Gandhi Kingdon University of Oxford, 2005



Reasons	Strong	Average	Weak	Total Percentage
Better curriculum	80	18.3	1.7	100
Better monitoring system	71.6	21.7	6.7	100
Children also take tuition	13.3	71.7	15	100
Involvement in co curricular activities	61.7	33.3	5	100

Teachers were asked about their opinion regarding better performing school, to which private school was responded by 99 percent. On further being asked about the reasons, 85 percent respondents responded teachers' non involvement in non academic activity as a very strong reason for better performance. 75 percent of respondents perceive family background as an average reason for better performance of children from private school. Further 56 percent responded good facilities as an average reason while 43 percent perceived it as a strong reason.

Better management was responded as strong reason by 83.3 percent of respondent. Regarding Pupil Teacher Ratio, 71 percent of the respondents perceive it as a strong reason. Regular attendance of children was also responded by 91.6 percent of teachers as a strong reason for better performance of children from private schools. Tests at regular interval were also seen as strong reason by 75 percent of parents.

Another factor which got a strong response was of better curriculum with 80 percent respondents perceiving it as a strong reason for better performance. However, De et al points out that in terms of learning achievement no miracles can be expected from this sector. The usual curriculum with all its decontextualized as well as heavy content remains the curriculum for private schools.<sup>53</sup>

Other factors like better monitoring system also was responded as strong by 71 percent.

### 4.3c Problems Faced By teachers in Schools

**Table 4.30:** Problems Faced By teachers in LFPS

Reasons	Highly problematic	Problematic	Problematic at times	Not a problem	No response	Total Percentage
Job insecurity/ Temporary Employment	43.3	1.7	25	13.3	16.7	100
Less salary	35	13.3	8.3	25	18.3	100
No benefits (medical allowance, insurance, pension etc)	33.3	5	5	38.3	18.3	100
Leaves	10	10	8.3	61.7	10	100

<sup>53</sup> Private Schools for Less Privileged: Some Insights from a Case Study, Anuradha De, Claire Noronha, Meera Samson, EPW, 2002

Reasons	Highly problematic	Problematic	Problematic at times	Not a problem	No response	Total Percentage
Non Teaching engagements	45	23.3	11.7	6.7	13.3	100
Extra burden of work	3.3	15	21.7	41.7	18.3	100
Working on holidays	0	5	16.7	60	18.3	100
Large Classes (PTR)	20	20	5	38.3	16.7	100
No time for preparation and self study	3.3	6.7	31.7	41.7	16.7	100
No grievance redressal	1.7	5	15	56.7	21.7	100
No annual increment	26.7	5	11.7	38.3	18.3	100
Managements/ Principals autocratic behaviour	13.4	11.7	46.7	13.3	15	100

Teachers, while responding about their problems in schools, rated job insecurity as very problematic. 43.3 percent of the teachers saw it as very problematic while 25 percent saw it as problematic at times. 33.3 percent of teachers find lack of benefits like medical allowances, insurances, pension as highly problematic while 38 percent of them did not find this a problem at all. Non teaching engagements were also responded as very problematic by 45 percent of teachers. Another problem faced by teachers is that of no annual increment. 26.7 percent teachers responded it to be highly problematic. However, 38 percent responded it to be not a problem at all. Principal's behaviours were responded as problem at times by 46.7 percent of teachers.

#### 4.3d Awareness regarding CCE

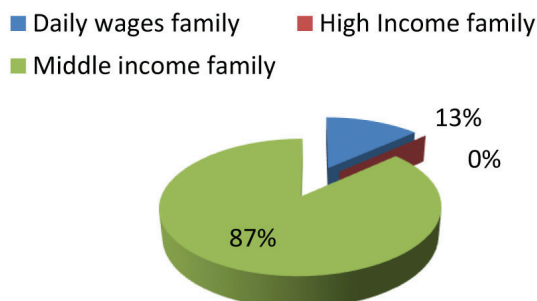
**Figure 4.31:** Awareness and Implementation of CCE

	Yes	No
Do you have any knowledge about CCE	46.7	53.3
If yes, have you received any training	3.3	96.7

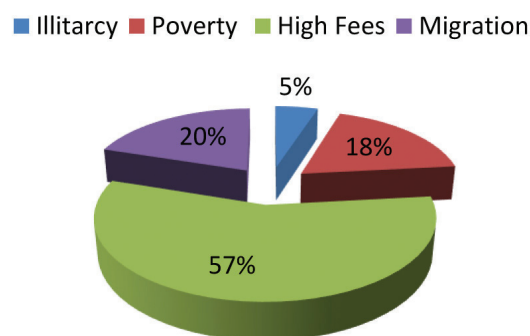
Data reveals 46 percent of teachers' awareness about CCE and only 3.3 percent have received training on it. While CCE has been mandated by RTE Act as the process of evaluation to be undertaken in schools, LFPS schools are still unaware about it and even when aware, proper trainings or implementation in most of the schools have not been undertaken.

### 4.3e Students' Economic Background and Reasons for Drop Out

**Figure 4.32: Students' Economic Background**



**Figure 4.33: Reasons for drop out**



Regarding the economical background of children, 87 percent of teachers responded that they come from middle income families, while 13 percent responded that majority of children come from daily wage earners. On being further asked about the reasons for drop out of children, 57 percent responded high fees to be the reason while 20 percent said migration. Another 18 percent gave poverty as the main reason for drop out.

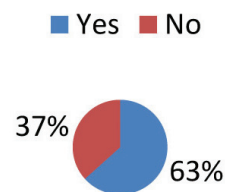
### 4.4 Children's Interview

Further, interviews were conducted with 200 children to delve into their experiences in their schools. Figure shows that 95 percent of children get homework in schools and of which 72 percent responded that they are sometimes given homework by teachers. 22 percent of them said that they are given a lot of homework and 7 percent of children shared that they do not get any homework at all.

**Table 4.34: Do teachers give homework**

Do teachers give homework	Percentage
Yes	95
No	5
Lot of homework	22
Sometimes	72
Never	7

**Figure 4.35: Punishment for not doing homework**



Further, it was found that 63 percent of children faced punishment for not completing their homework. When asked about the nature of punishment, children shared that they are also beaten in schools. Similar punishments were given for act of indiscipline.

Despite Section 17 (l) of RTE Act restricting corporal punishments in schools, it is found to be a rampant practice in private schools under study.

Table: Discrimination faced in schools	
Response	Percentage
Yes	5
No	95

Regarding evaluation system, 100 percent children responded written exam as the system of evaluation in their school. Not a single child spoke about CCE being implemented in their school for evaluation.

Regarding discrimination faced in schools, 5 percent of children (all girls) reported that they do face discrimination in schools. When further asked about the kind of discrimination faced, gender discrimination was responded.

Table : Evaluation system	
Written Exam	Percentage
Yes	100
No	0

## 5. Evaluating LFPS through Regulations in Right of Children to Free and Compulsory Education Act, 2009

Present section examines the abidance of the regulations for schools in the RTE Act, 2009 by the schools under study. Schools have been assessed on the basis of various sections/provisions under the Act.

### 5.1 Salient Features of RTE Act

The RTE Act provides for the:

- Right of children to free and compulsory education till completion of elementary education in a neighbourhood school.
- It clarifies that 'compulsory education' means obligation of the appropriate government to provide free elementary education and ensure compulsory admission, attendance and completion of elementary education to every child in the six to fourteen age group. 'Free' means that no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education.
- It makes provisions for a non-admitted child to be admitted to an age appropriate class.
- It specifies the duties and responsibilities of appropriate Governments, local authority and parents in providing free and compulsory education, and sharing of financial and other responsibilities between the Central and State Governments.
- It lays down the norms and standards relating inter alia to Pupil Teacher Ratios (PTRs), buildings and infrastructure, school-working days, teacher-working hours.
- It provides for rational deployment of teachers by ensuring that the specified pupil teacher ratio is maintained for each school, rather than just as an average for the State or District or Block, thus ensuring that there is no urban-rural imbalance in teacher postings. It also provides for prohibition of deployment of teachers for non-educational work, other than decennial census, elections to local authority, state legislatures and parliament, and disaster relief.
- It provides for appointment of appropriately trained teachers, i.e. teachers with the requisite entry and academic qualifications.
- It prohibits (a) physical punishment and mental harassment; (b) screening procedures for admission of children; (c) capitation fee; (d) private tuition by teachers and (e) running of schools without recognition,
- It provides for development of curriculum in consonance with the values enshrined in the Constitution, and which would ensure the all-round development of the child, building on the

child's knowledge, potentiality and talent and making the child free of fear, trauma and anxiety through a system of child friendly and child centered learning.

## 5.2 Provisions/Sections in the RTE Act and its compliance by LFPS

**Registration of schools:** Section 18 and 19 of the RTE Act prohibits operating schools without recognition. It states:

Every school, other than a school established, owned or controlled by the State Government or Local Authority, established before the commencement of this Act shall make a self declaration within a period of three months of the commencement of the Act regarding its compliance or otherwise with the norms and standards prescribed in the Schedule and the following conditions:

- (a) The school is run by a society registered under the Societies Registration Act, 1860 (21 of 1860), or a public trust constituted under any law for the time being in force;
- (b) The school is not run for profit to any individual, group or association of individuals or any other persons;
- (c) The school conforms to the values enshrined in the Constitution;
- (d) The school buildings or other structures or the grounds are used only for the purposes of education and skill development;

Schools that do not conform to the norms, standards and conditions shall be listed by the District Education Officer through a public order to this effect, and any time within the next two and a half years, such schools may request the District Education Officer for an on-site inspection for grant of recognition. Schools which do not conform to the norms, standards and conditions mentioned after three years from the commencement of the Act, shall cease to function

Where the District Education Officer on his own motion, or on any representation received from any person, has reason to believe, to be recorded in writing, that a school recognised under rule 12, has violated one or more of the conditions for grant of recognition shall, on the basis of the decision of the State Education Department, pass an order cancelling the recognition granted to the school and shall be operative from the immediately succeeding academic year.

Any person who establishes or runs a school without obtaining certificate of recognition, or continues to run a school after the withdrawal, shall be liable to fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which the contraventions continue.

Section 19: No school shall be established or recognised unless it fulfils the norms and standards specific in the schedule.

Study found that only 8.3 percent of the total schools had registration. 5 percent of the schools were under the process of obtaining registration. As per the Act, any school without registration cannot operate after three years of commencement of the Act. 86.7 percent of the schools under the study did not have registration.

**Provision of 25 percent reservation:** Provision of 25 percent reservation for the children coming from the weaker section has been made under Section 12 of the RTE Act. Act further makes provision for the reimbursement of expenses of those children by the government. Study found that 52 percent of the head teachers/ managers were unaware about the provision itself. Additionally, only 8 percent of the schools were found to be registered hence eligible for reimbursement from the government. Since more than 92 percent of the schools were not registered, offering reservation was out of question!

**Infrastructure:** Norms and standards in the Schedule of RTE Act makes provision for boundary wall, separate toilets, safe and adequate drinking water, playground, library to be available in every school. Findings from the study show 40 percent of the schools without boundary walls, 37 percent of the schools did not have a playground and that 10 percent and 15 percent of schools did not have functional toilets for girls and boys respectively.

**Educational qualification:** section 23 (1) talks about the minimum qualification required for being appointed as a teacher. It further states that teachers who do not possess such qualifications shall acquire such minimum qualification within 5 years of the commencement of the Act. It was found that only 1 percent of the teachers had educational qualification required to be eligible to teach in school. Further, passing TET examination is a requisite for teachers to teach in school. It was found that 94 percent of the teachers had not passed the examination.

**Evaluation system:** Section 29 (2) prohibits schools to detain students upto completion of their elementary education. Further, 29 (2)h makes provision for CCE to be used as an evaluation system in schools. A further addition was made in 2017 to the Act regarding CCE. It includes the following clause in rule 23, in sub-rule (2) for clause (c), “(c) prepare class-wise, subject-wise learning outcomes for all elementary classes; and (d) prepare guidelines for putting into practice continuous and comprehensive evaluation, to achieve the defined learning outcomes.”

91 percent of the head teachers interviewed informed CCE not being used a system of evaluation in their schools. Further, interviewing children brought out that none of the schools had implemented CCE as a system of evaluation.

**Process of admission:** Section 13(1) states that no person shall, while admitting a child, collect any capitation fee and subject the child or parents to any screening procedure. In any contravention, a fine of ten times the capitation fee will be charged from the schools. In case of screening procedure, it shall be punishable with the fine which may extend to twenty five thousand rupees for the first contravention and fifty thousand for each subsequent contravention. Study found that 78 percent of the schools either conducted test or interview for admitting children to school.

**Gender and caste discrimination** Section 9 (c) prohibits any kind of discrimination of the children coming from historically marginalised sections which would hinder their elementary education. While cases of caste and gender discriminations were not reported in the study, discrimination in the access due to the fee charged was found in the study. Only one third of the total enrolments were girls.

**Corporal Punishment:** Section 17 (1) states that no child should be subjected to physical or mental harassment. 73 percent of children interviewed informed that they are punished by their teachers in their school.



## 6. Human Rights Obligations and Low Fee Private Schools in India

Present chapter delves into various Declarations and Conventions at international level which perceives Education as a Human Right and evaluate low fee private schools based on the different international instruments which ratifying countries are obliged to follow.

To affirm the right to education, States have adopted a number of international legal standards which fall into various categories and they follow one after another. At the outset, The Universal Declaration of Human Rights adopted by the United Nations General Assembly on 10 December 1948 in its Article 26 asserted education as a human right. It explicitly marked that ‘Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages.’ It further said that elementary education shall be compulsory.’ However, article 26 (3) also stated that ‘parents have a prior right to choose the kind of education that shall be given to their children.’<sup>54</sup>

### 6.1 International Covenant on Economic, Social and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (ICESCR) devotes two articles to the right to education, articles 13 and 14. Article 13 is considered the longest provision in the Covenant, is the most wide-ranging and comprehensive article on Right to Education in international human rights law.

#### Article 13

The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.

With regards to primary education, the Covenant recognizes that for the complete realization of this right, Primary education shall be compulsory and available free to all. It further makes statements regarding secondary, higher and fundamental education. RTE Act 2009 is in alignment with the covenant as it provides for free and compulsory education till the age of 14 years.

Another important aspect that the convention covers is regarding the teaching conditions of teachers. Regarding teachers, Article 13 mentions that the covenant requires ‘the material condition of the teaching staff to be continuously improve’. However, study brings out that the working conditions of the teachers are compromised highly in Low Fee Private Schools. Their salaries are even below the minimum wage standards.

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<sup>54</sup>Universal Declaration of Human Rights,1948 (Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations.)



Covenant further mentions that the state parties should undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions. This would mean that though international legal instrument allows for the private schools to be chosen by parents but those schools must confirm the standards set by state. In context of India, the standards have been framed in RTE Act. Present study found that the low fee private schools are far below the prescribed standard. Also, while the Act mandates the registration of schools, more than 90 percent of schools still didn't have registration even after 7 years of the commencement of RTE Act, 2009.

Articles 13 (3) and (4) of the covenant elaborates on right to educational freedom. It comprises of two elements, first regarding the freedom of parents on religious and moral education and second regarding the liberty of parents to choose other than public schools. However, it explicitly states that 'the requirement (be) that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.'

## **Article 14**

Article 14 directs the state parties to come up with plan of action for free and compulsory primary education. The article further directs to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years. The implementation of RTE Act in India still remains highly unachieved which is against the spirit of article 14 of the covenant.

## **6.2 General Comment 11, 13 and 14 of the ICESCR**

General Comment 13 adopted by the Committee on Economic, Social and Cultural Rights, provides interpretation and clarification of Article 13 of the International Covenant on Economic, Social and Cultural Rights. The general comments were adopted in year 1999 (in the month of December) by the CESCR.<sup>56</sup> Prior to this, General comment 11 had already been adopted in the same year on 10th May, 1999. General comment 11 provides interpretation and clarification on Article 14 of the CESCR, which largely focuses on the plans of action for primary education.<sup>57</sup>

Plans of action in General Comment 11 directed the state parties to detail out a plan of action for making primary education compulsory and free of charge for all. It emphasised on the elements like compulsory, free of charge, obligation and progressive implementation. While detailing about the element of 'compulsory' primary education, article states that 'neither parents, nor guardians, nor the State are entitled to treat as optional the decision as to whether the child should have access to primary education.

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<sup>56</sup>CESCR General Comment No. 13: The Right to Education (Art. 13), Adopted at the Twenty-first Session of the Committee on Economic, Social and Cultural Rights, on 8 December 1999

<sup>57</sup>Substantive Issues Arising In The Implementation Of The International Covenant On Economic, Social And Cultural Rights: General Comment 11 (1999). Plans of action for primary education (article 14 of the International Covenant on Economic, Social and Cultural Rights)

Prohibition of gender discrimination in access to education, required also by articles 2 and 3 of the Covenant, is further underlined by this requirement.' In terms of gender discrimination, the study found huge gender bias in the accesses of Low Fee Private School against females. While 65 percent of the children under the study were male, only 35 percent of them were females.

Regarding primary education to be 'free of charge', the comment states that not just the direct charges, but also the indirect charges which can have regressive effects on the enjoyment of the right and may jeopardize its realization, should be addressed in the plan of action. While the government schools do offer education free of cost, with uniforms and books distributed free of cost, Low Fee private schools does not just have unaffordable fees but also high expenses other than the fees.

General Comment 13, which is considered as the most elaborate convention regarding the right to education in international Human rights law, comments on the normative content of article 13, some of the obligations arising from it, and some illustrative violations. It also briefly remarks upon the obligations of actors other than States parties. It would be important to elaborate on few of the facets of General comment 13 and analyse the legitimacy of low fee private schools under those aspects. The comment emphasises on the essential and interrelated features that education in all its forms must exhibit. The features mentioned in Article 13 (2) (6) of the comment are as follows:

#### **(a) Availability:**

Functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party. What they require to function depends upon numerous factors, including the developmental context within which they operate; for example, all institutions and programmes are likely to require buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, and so on; while some will also require facilities such as a library, computer facilities and information technology.

While the indicators like sanitation for both sexes, safe drinking water were available in good number of low fee private schools, trained teachers and domestically competitive salaries were highly compromised. Appointing untrained teachers leads to compromised quality of education. Study found that more than 90 percent of the teachers were not eligible to teach in schools.

#### **(b) Accessibility.**

Educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State party. Accessibility has three overlapping dimensions:

- **Non-discrimination-** education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds

On grounds of discrimination, Low fee private schools fares low. There are strong evidences of gender discrimination. As mentioned earlier, only 35 percent of the enrolments in the schools were found to be females. The issue has been raised time and again by various studies which show gender discrimination to be rampant. Further, enrolment of children from SC/ST category is also low as they have been historically marginalised and cannot afford to send their children to private schools.

- **Physical accessibility** - education has to be within safe physical reach, either by attendance at some reasonably convenient geographic location

Findings from the study show that Low Fee Private schools scores well in terms of physical accessibility.

- **Economic accessibility** - education has to be affordable to all...whereas primary education shall be available “free to all”.

Affordability of Low Fee Private Schools is highly questionable. Present study brings out that most of the schools are attended by children do not belong to the marginalised sections.

### **(c) Acceptability**

The form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents.

Pedagogy and curricula in LFPS are also quationable.RTE mandates CCE to be undertaken as a evaluation system which shuns rote learning, however, most of the low fee private schools did not implement CCE and encourage rote learning itself. RTE Act also comments on the curricula to be followed in schools but study brought out that there were more than 50 types of publications being used in different schools. Whether all these publications follow the set criteria of curricula is dubious. Recent evidence in other countries is mixed but increasingly pointing towards school choice not adding value in terms of curricular learning achievement.<sup>59</sup>

### **(d) Adaptability**

Education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.

Standardised methods used in schools are not flexible to the needs of the changing society.

<sup>59</sup>Does School Choice Help Rural Children from Disadvantaged Sections? Evidence from Longitudinal Research in Andhra Pradesh D D Karopady

As formulated in Article 13(2) (a), education has two distinctive features: it is 'compulsory' and available 'free to all'. Further, under article 13 (3) regarding the rights to educational freedom, it talks about parents and guardians having right to choose other than public schools provided the schools conform to such minimum educational standards as may be laid down or approved by state which may relate to issues such as admission, curricula and the recognition of certificates.

Regarding article 13 (4) which affirms the liberty of individuals and bodies to establish and direct educational institutions but it further directs that this should not lead to extreme disparities of educational opportunities for some groups in the society.

Data reveals that children from most marginalised sections do not attend LFPS as parents cannot afford to pay the fees. They are overtly enrolled in the government school which offers free education, which leads to disparity.

The covenant further prohibits the discrimination and directs that the states to identify and take measures to redress any de facto discrimination. States have the obligation to respect, protect and fulfil each of the 'essential features' (4As) of Right to Education.

In context of India, bias against females is very much evident. Also, presence of children coming from historically marginalised groups (Schedule Caste/Schedule Tribe) is very limited.

The World Declaration on Education for All and the Framework for Action to Meet Basic Learning Needs adopted by the World Conference on Education for All, which met at Jomtien (Thailand) from 5 to 9 March 2000, more recently, the Dakar Framework for Action Education for All: Meeting our Collective Commitments adopted by the World Education Forum, which met at Dakar (Senegal) from 26 to 28 April 2000, are two comprehensive texts are also of importance.

## **6.3 Some Pertinent Aspects of the International Legal Standards**

### **➤ Discrimination**

According to the modern view of the right to education such as the Dakar Framework for Action, the object is to ensure universal access to that right for all children – regardless of their sex, their ethnic or cultural group, or any disability or particular situation.

To begin by stating the obvious, the simplest way to achieve accessibility for all is by providing free education.<sup>60</sup>

Article 2.3 directs states to take action to eliminate all direct and indirect discrimination against girls and women in education systems.<sup>61</sup> For states to abide by the article, privatisation of education needs to be stopped as evidences strongly points towards the discrimination.

Convention against Discrimination in Education of 14 December 1960 directs to implement the principles of the Universal Declaration of the Human Rights. For the purposes of the 1960 Convention

<sup>60</sup>Yves Daudet and Kishore Singh "The Right to Education: An Analysis of UNESCO's Standard Setting Instruments", UNESCO, Paris, 2001

<sup>61</sup>Declaration of the 44th session of the International Conference on Education and the Integrated Framework of Action on Education for Peace, Human Rights and Democracy, endorsed by the General Conference of UNESCO at its 28th session (Paris, November 1995)

(Art. 1) the term “discrimination” includes any distinction, exclusion, limitation or preference which, being founded on race, colour, sex, language, religion, opinion, economic condition or birth, might impair equality of treatment in education of any kind. However, in terms of private education, the convention states that Private education may coexist with education provided by the public authorities if the object is not to secure the exclusion of any group but to provide educational facilities in addition to those provided by the public authorities.

Further, universal access to basic education, including completion of primary education or equivalent learning achievement by at least 80 per cent of the relevant school age children with emphasis on reducing the current disparities between boys and girls.<sup>62</sup>

### ➤ **Quality Education and role of Teachers**

The need to provide primary education of good quality was stressed at the World Education Forum.<sup>63</sup> The recognition of the vital role of both families and teachers is particularly important. In this context, the terms and conditions of service of teachers and their status, which constitute a determining factor in the implementation of education for all, must be urgently improved in all countries in line with the joint ILO/ UNESCO Recommendation Concerning the Status of Teachers (1966).<sup>64</sup> Further, Article 13 of the covenant also reiterates that “the material conditions of teaching staff shall be continuously improved”, in practice the general working conditions of teachers have deteriorated, and reached unacceptably low levels, in many States parties in recent years.<sup>65</sup>

Article 2.5 states to give priority to pre-service and in-service training as well as the retraining of educational personnel.<sup>66</sup>

Article 13 puts focus on the Completion of an approved course in an appropriate teacher-preparation institution should be required of all persons entering the profession.<sup>67</sup>

The work of CESCR is helpful in understanding quality and content. Primary education must comply with “minimum educational standards” to be established and effectively monitored by States Parties (General Comment No. 13, para. 54), be culturally appropriate and of good quality (General Comment No. 13, para. 6(c)), and conform to the educational objectives set out in Article 13(1) of the Covenant (General Comment No. 13, para. 59). As stated by CESCR in its concluding observations, States Parties are

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<sup>62</sup>The Dakar Framework for Action – Education for All: Meeting our Collective Commitments, adopted by the World Education Forum (Dakar, Senegal, 28 April 2000)

<sup>63</sup>World Education Forum, 2000, Dakar

<sup>64</sup>World Declaration on Education for All, Jomtien, Thailand (1990)

<sup>65</sup>CESCR General Comment No. 13: The Right to Education (Art. 13)

Adopted at the Twenty-first Session of the Committee on Economic, Social and Cultural Rights, on 8 December 1999 (Contained in Document E/C.12/1999/10)

<sup>66</sup>Declaration of the 44th session of the International Conference on Education and the Integrated Framework of Action on Education for Peace, Human Rights and Democracy, endorsed by the General Conference of UNESCO at its 28th session (Paris, November 1995)

<sup>67</sup>Recommendation concerning the Status of Teachers, 5 October 1966, UNESCO

obliged to ensure that educational standards in public schools do not fall behind those in private schools. Domestically competitive salaries and the adequate status and working conditions of qualified teachers, as well as a sufficient quantity of teachers and functioning educational facilities, are among the preconditions for ensuring the quality of primary education.<sup>68</sup>

Article 28 of The Convention on the Rights of the Child contains that States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular Make primary education compulsory and available free to all.

Article 29 of the CRC Individuals and bodies to establish and direct educational institutions, subject always to the observance of the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

The right is also contained in Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women. It states that the State Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women.

The principle of non-discrimination and equal access to education as a right, expressed in the Convention against Discrimination in Education and stipulated in Articles 2(2) and 3 of the International Covenant, is an important dimension of the right to primary education for all.<sup>69</sup>

In fulfilment of the commitments made in Jomtein declaration, further, Plan of Action for Implementing the World Declaration on the Survival, Protection and Development of Children in the 1990s states specific measures that must be adopted for universal access to basic education, including completion of primary education or equivalent.... with emphasis on reducing the current disparities between boys and girls.<sup>70</sup>

### ➤ **Imposing Fee**

Imposing fees may lead to the further exclusion of socially and culturally marginalized groups, in particular children from poor families who are unable to pay the fees and remain deprived of education.

The liberty to establish and direct educational institutions should be subject to democratic scrutiny and respect the human rights principles of transparency and participation. In this regard, decisions and developments in relation to the education system, including the involvement of private education, must be done in consultation with, and the participation of, various groups of society, including the poorest. This obligation has been highlighted in particular by the CRC which recommends that “States Parties, when considering contracting out services to a non-state provider – either for-profit or non-profit, or international or local – undertake a comprehensive and transparent assessment of the political, financial and economic implications and the possible limitation on the rights of beneficiaries in general, and children in particular”. In its General Comment 1 on the aims of education, the Committee also emphasised “the

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<sup>68</sup>Primary Education Free of Charge For All: ensuring compliance with international obligations, UNESCO, 2008

<sup>69</sup>Right to Primary Education Free of Charge for All, UNESCO, 2008

<sup>70</sup><https://www.unicef.org/wsc/plan.htm#Basic> ( World Summit for Children)



role of national-level monitoring which seeks to ensure that children, parents and teachers can have an input in decisions relevant to education”<sup>72</sup>

Private educational institutions should exist in addition to public schools and attendance in such institutions should be optional.<sup>73</sup> The UN Special Rapporteur on the Right to Education made this explicitly clear by emphasising that: “governments should ensure that private providers only supplement public education, the provision of which is the Government’s responsibility, rather than supplant it”, adding: “it is important to ensure that States do not disinvest in public education by relying on private providers”. Further, the Committee on Economic, Social and Cultural Rights (CESCR) stated: “it is clear that article 13 regards States as having principal responsibility of direct provision of education in most circumstance. States parties recognise for example, that the ‘development of a system of schools at all levels shall be actively pursued’”. The CRC has also provided guidance on the implementation of the Convention of the Rights of the Child in the context of privatisation emphasising that: “enabling [the] private sector to provide services, run institutions and so on does not in any way lessen the State’s obligation to ensure for all children within its jurisdiction the full recognition and realisation of all rights in the Convention”.<sup>74</sup>

In the presence of several international legal instruments, privatisation which leads to discrimination and disparities, which does not follow the rules set in the RTE Act is thriving and government seems reluctant to act upon improving the situation. Low Fee Private schools are not registered, do not follow the set norms, appoint untrained teachers and are gender biased against girls and other marginalised groups and there is a need to either bring them to the standard set by government or need to shut down.

## Findings from the study

Low Fee Private schools, as claimed by the proponents, cater to the lower strata of the society. However, it was found through the study that majority of children come from the middle income families and the children from the economically and socially marginalised sections cannot afford to study in these schools.

Schools fared very low on the indicators of the RTE Act which schools are mandated to follow. In terms of infrastructure, it was found that the schools did not provide with the basic infrastructure.

It was also found that nearly two third of the students in LFPS were boys and only one third were girls pointing towards the accentuation of disparities within girls and boys. Low Fee Private Schools have failed to promote equity.

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<sup>72</sup>The UK’s support of the growth of private education through its development aid: Questioning its responsibilities as regards its human rights extraterritorial obligations

<sup>73</sup>UNESCO Convention against Discrimination in Education, Article 2.b

<sup>74</sup>UN Special Rapporteur on the right to education, State responsibility in the face of the explosive growth of private education providers, from a right to education perspective, 2014

Quality of education, which largely depends of the quality of teachers in schools, has also been compromised in LFP schools. It was found that more than 90 percent of teachers in the schools were not qualified as per the criteria of RTE Act and hence were not eligible to teach. Salaries offered in the Low Fee schools is also abysmally low, majority of teachers getting paid below the minimum wage. In fact, appointment of untrained teachers is one of the strong reasons behind the low fees at which the education is offered in these schools. However, this leads to a low quality of education in the schools.

While RTE Act prescribes Continuous and comprehensive evaluation system to be implemented in every school up to 8th standard, more than 50 percent of the head teachers/manager are unaware about it and of the people who are aware about it, majority of head teachers do not implement it in their schools. Further when teachers were asked whether they are aware about CCE and have received any training, more than 50 percent of teachers were unaware about the evaluation system and only 3.3 percent of them had received any training. Interview with children also brought out the fact that none of the schools implemented CCE as a system of evaluation.

Low Fee Private schools were evaluated on the basis of few international legal instruments as well and it was found that most of the instruments do not allow space for growth of such institutions which fares low in terms of Availability, Acceptability Accessibility and Adaptability.



## 7. Recommendations and Conclusion

### Recommendations:

- (1) A school mapping should be undertaken by the government to identify all the schools that are functioning (with or without registration). Schools which do not qualify the criteria and hence can't be registered should be shut down.
- (2) Strong monitoring system for private schools must be brought in to force.
- (3) Government should recognise that privatisation of education leads to serious equity concerns and should take steps to curb any form of discrimination.
- (4) Issue of untrained teachers' appointment is a rampant practice and needs to be brought under vigilance for achieving goal of quality education.
- (5) Government must strongly act towards improving the quality of education in government schools, which would be possible with complete implementation of RTE Act.

### Conclusion

The non-state sector has played a critical role in the spread of elementary education in India. The history of schooling, especially in the colonial period and early post Independence decades, bears witness to these efforts. Today the RTE Act (2009) provides a framework within which the private sector can meaningfully participate in the education of children. However, the Act requires that all schools meet basic norms that have been laid down in relation to indicators of quality and commitment to social justice. Not surprisingly the private school advocates and new players in the market are leading the efforts to lobby to see that they are not covered by the RTE (2009).

The regulatory mechanism of 'recognition norms' has failed to ensure a minimum acceptable norm of quality schooling even though norms have been diluted to an almost poverty line level. Market forces dictate that if the government schools functioned at reasonable level private schools would be forced to follow suit or forced out of business.

Contrary to what is claimed by Tooley and others, majority of those who are actually at the lowest end of the economic hierarchy are more likely to enrol their children only in government schools as they charge no tuition fee and provide free textbooks and other essentials like mid-day meals.<sup>75</sup>

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<sup>75</sup>Low-Cost Private Schools for the Poor in India Some Reflections, Geetha B. Nambissan, 2012

The failure to enforce and monitor the regulatory framework within which private schools are to function has left the educational landscape open to corrupt practice and manipulation. While there is a formal institutional framework within which recognised schools function, Srivastava points to the existence of a ‘shadow institutional framework’ that is used by private unrecognised schools (2008: 452). She elaborates that this is a ‘codified yet informal set of norms and procedures’ used to ‘manipulate and mediate the formal policy and regulatory framework for their benefit, and forms part of the de facto LFP sector, a sub-sector of the greater private unaided sector’.

It’s high time that government gets serious about the proper implementation of the Act and brings down such institutions which operate as schools but compromises highly on the basic legal norms and in turn the quality of education offered in such institutions.



# ABOUT NATIONAL COALITION FOR EDUCATION (NCE)

## Vision

National Coalition for Education (NCE) aspires to ensure inclusive and equitable quality education and lifelong learning opportunities for all.

## Mission

National Coalition for Education (NCE) strives to advocate for the Right to Education for sustainable development with active participation of Civil Society Organisations, Teachers' Unions, Community and Policy makers to make education a reality for all by 2030.

## Genesis

The creation of national coalition for education in India was highly influenced by the global political atmosphere on right to education. Beginning in 1990 with the Jomtien Conference and the adoption of the World Declaration on Education for All there has been a continued push to get every child into school. However, there was very little progress being made and ten years later, in 2000, the World Education Forum was held in Dakar, Senegal, and an agreement was made on the objective of having EFA by 2015. Six targets were set up stating that quality education should be available for free for everyone. One of the biggest players present at the forum was the Global Campaign for Education (GCE) that was created from the efforts of INGO's Action Aid, Oxfam GB, and Education International that wanted to set up a global coordinated funding initiative. The GCE promised to mobilize and create public pressure on governments to follow up on their promises to provide free high quality education for all people, especially for children and women (GCE 2009).

The NCE was formed as a product of the prolonged struggle of like-minded organizations, groups and individuals on the issues of education in India. The idea of establishing a national coalition in India initially began in 1996 when several of the current members began working together on the issue of EFA.

## Composition

Since its official inception in 2002, the NCE has brought together a varied group of member organizations, uniting teachers unions, non-governmental organizations, and other social movements. At this time, the NCE has seven member organizations:

- All India Primary Teachers Federation (AIPTF), a union of more than 3 million primary teachers,
- All India Federation of Teachers Organization (AIFTO), a union of 1.2 million teachers,
- All India Secondary Teachers Federation (AISTF), a union of 0.85 million teachers,
- All India Association for Christian Higher Education (AIACHE), an association of 300 college principals,
- World Vision India, a foundation working for child rights, education and development,
- Parliamentary Forum for ensuring right to Education, a group of existing and newly elected Parliamentarians.
- People's Campaign for Common School System (PCCSS) an organisation working for common school system.
- Besides these partners NCE has around 150 NGOs, individuals, networks and fellow travellers from community as well as at national level.



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