



HUMAN
RIGHTS
WATCH

“They Say We’re Dirty”

Denying an Education to India’s Marginalized



“They Say We’re Dirty”

Denying an Education to India’s Marginalized

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Glossary

Anganwadi	Government-run early childhood care and education center. Anganwadi workers' duties include providing nutritional supplements to pregnant and lactating mothers.
Block	Administrative division of a district.
Block Education Official	Official in a state government's education department responsible for monitoring at block and village level.
Block Resource Centre (BRC)	Academic resource center at block level to facilitate training for teachers. The coordinators in BRCs provide in-service training and on-site support to schools for improvement of school quality.
Cluster Resource Centre (CRC)	Academic resource center at village level. The coordinators in CRCs provide in-service training and on-site support to schools for improvement of school quality. Monthly teacher meetings are held here.
Dalit	So-called "untouchables," at the bottom of the caste hierarchy.
District	Administrative division of a state.
Elementary education	Education up to grade VIII covered under the Right of Children to Free and Compulsory Education Act 2009.
Gram Panchayat	Village-level councils.
Gram Sabha	A cluster of villages governed by a village council.
Mandal	Another name for block (administrative division of a district) in the state of Andhra Pradesh.

Musahar	A sub-caste among the Scheduled Castes. Musahars are among the poorest and the most marginalized communities, and face discrimination not only from people in so-called upper castes but also from other Dalits.
Other Backward Classes	Phrase under Indian law for groups considered to be socially, economically, and educationally marginalized.
Primary school	Grades I to V.
Sarva Shiksha Abhiyan	Government program to provide universal education, supported by numerous international aid agencies.
Scheduled Castes	Caste groups, also known as Dalits, that are eligible for quotas in education and government jobs.
Scheduled Tribes	Phrase used in Indian law for tribal communities that are eligible for special protections including quotas in education and government jobs.
Upper primary school	Grades VI to VIII.

Summary

The teacher always made us sit in a corner of the room, and would throw keys at us [when she was angry]. We only got food if anything was left after other children were served.... [G]radually [we] stopped going to school.

— Shyam, 14, Dalit boy from Uttar Pradesh now working at a brick kiln,
April 2013

When you speak with officials about the right to education, they love to talk about plans and circulars. But ask them about implementation—and they hem and haw. They have nothing.

— Sanat Sinha, chief coordinator, Bal Sakha, Patna, July 2013

In 2009, India enacted the Right of Children to Free and Compulsory Education Act, which provides for free and compulsory education to all children aged 6 to 14 based on principles of equity and non-discrimination. For a country that six decades ago at independence had staggering poverty and illiteracy levels, this was an overdue but ambitious step to meet its domestic and internationally recognized obligations to its children. It also testified to India's increasing confidence as an emerging economy with one of the youngest and largest work forces in the world.

However, four years after it came into force, the Right to Education Act is yet to be properly implemented. While nearly all primary school children are enrolled in school, many millions do not actually attend classes. Often, this is because their caste, ethnicity, economic condition, religion, or gender acts as a barrier to education. Most children with disabilities are excluded from government schools due to lack of teachers with specialized training, and inadequate facilities and care.

State governments typically ignore the problem. Detailed plans to monitor and track each child's progress have not been implemented by the authorities, be they district or state officials, village committees, school principals, or teachers. According to the United Nations Children's Fund (UNICEF), 80 million Indian children drop out of school before completing elementary education.

In this report, Human Rights Watch examines the obstacles preventing certain children from attending school and the government's failure to take the steps necessary to address the problem. Discrimination remains a major factor affecting access to education for children from marginalized communities, including Dalits, tribal groups, and Muslims. Already vulnerable because of socio-economic challenges, these children need special attention and encouragement to remain in school. Instead, a lack of proper monitoring leaves such children vulnerable to exclusion, denying them the right to a child-friendly and equitable environment as set out under the Right to Education Act. Poor monitoring also results in poor retention of at risk children, many of whom end up pushed into work and early marriage.

April 1, 2013, was the three-year deadline to implement key provisions of the Right to Education Act. The government has made noteworthy progress in some areas, but did not meet several important targets. While net enrollment in primary schools is now nearly 100 percent, regular attendance and retention continues to be a major challenge. Local rights groups say that mechanisms still have not been put in place for tracking children's attendance, mapping exclusion, and setting up adequate number of "bridge" courses so that children who drop out or start school at a later age can catch up to their peers in age-appropriate classes.

The central government recognizes that exclusion—based on children's caste, class, gender, and special needs can take many forms and affect access, participation, retention, achievement, and completion of elementary education— is therefore, the "single most important challenge in universalising elementary education" and has drafted policies under the Right to Education Act to keep its poorest and most vulnerable in attendance. Although education officials hesitate to admit the existence of segregation or discrimination in schools, a 2012 study commissioned by the government's flagship education program, Sarva Shiksha Abhiyan, found exclusionary practices in schools and said there was an urgent need for the authorities to acknowledge and address them.

Human Rights Watch conducted research for this report in four states in India, interviewing more than 160 people, including 85 children, to examine continuing obstacles to proper implementation of the Right to Education Act. We did not conduct surveys or undertake statistical analysis, but instead offer a qualitative study; findings are drawn from interviews with children, parents, and a wide range of education experts, rights activists,

local authorities, and education officials, as well as from our analysis of reports and other secondary sources. We undertook the research in partnership with local groups who helped us identify children most at risk of being excluded from school.

This report finds that discrimination takes various forms, including teachers asking Dalit children to sit separately, making insulting remarks about Muslim and tribal students, and village authorities not responding when girls are kept from the classroom. Teachers and other students often address these children using derogatory terms for their caste, community, tribe, or religion. In some schools, children from vulnerable communities are not ever considered for leadership roles such as class monitor because of their caste or community. Many are expected to perform unpleasant jobs such as cleaning toilets. Schools in marginalized neighborhoods often have the poorest infrastructure and least well-trained teachers; many have fewer teachers than required.

In Uttar Pradesh state's Sonbhadra district, for example, students belonging to the Ghasiya tribal community told Human Rights Watch that they suffer discrimination at their school from teachers and fellow students, and that teachers at best pay them little attention. Many of these children, facing such obstacles, attend school only sporadically. Some stop going to school altogether.

In one school we visited, 58 Ghasiya children were placed in a single grade irrespective of their ages, and were asked to sit separately from the other students. One of the children told Human Rights Watch:

The teacher tells us to sit on the other side. If we sit with others, she scolds us and asks us to sit separately ... The teacher doesn't sit with us because she says we 'are dirty.' The other children also call us dirty everyday so sometimes we get angry and hit them.

The school principal told Human Rights Watch that the tribal children were a "big problem":

These Ghasiya children come to school late, come when they want to come, no matter how much we tell them to come on time. Their main aim is to come and eat, not to study. Just see how dirty they are.

Many Dalit children who spoke to Human Rights Watch complained of prejudice from teaching staff and fellow students. Priya, a Dalit from Bihar, told Human Rights Watch: “Other children don’t let us sit with them. Some of the girls say, ‘Yuck, you people are Dom [street sweepers] – a dirty caste....’ The teachers never say anything even when we complain.”

Such discriminatory behavior contributes to increased truancy. Several children in Priya’s neighborhood admit they attend school irregularly because they do not like the unwelcome atmosphere. The children stay away, fall behind in classes, and eventually drop out. An education activist in Bihar told Human Rights Watch, “Dalit children are made to feel inferior in schools and the schools reinforce caste norms. When it comes to any manual work such as cleaning of classrooms or picking up garbage, it’s always the Dalit children who are asked to do it.”

In other locations, we found Muslim children being neglected by the school system. Twelve-year old Sahir from Delhi told Human Rights Watch that Muslim children are left out of extra-curricular activities and leadership roles. “The teachers don’t let us participate in any sports. Class monitors are always chosen from among Hindu boys and they always complain about us Muslim boys.” The lead author of the 2006 Sachar committee report on the status of the Muslim community told Human Rights Watch: “There is a systemic bias against Muslims in India... which is carried forward in education too.” Predominantly Muslim areas in some parts of the country suffer from a lack of schools.

The situation is worse for girls. According to government statistics, the dropout rate among adolescent girls is as high as 64 percent. A significant number of these are girls from Dalit, tribal, and Muslim communities, who leave school without completing grade VIII, usually when nearing puberty. They are particularly vulnerable to child marriage. Their largely wage earning parents worry about leaving a teenage girl alone at home, and prefer to marry them early, fearing that unmarried teenage girls face greater risks of sexual abuse. Although the Right to Education Act proposes interventions to keep girls from vulnerable communities in the classroom, those mechanisms have not been effectively implemented.

Sharda, a Dalit girl, was withdrawn from school by her parents because they were worried about her safety. She was married at age 14 against her will. Before her wedding, when she went to school despite her parents’ refusal, she found that her name was no

longer in the school register. While some villagers cautioned her father against marrying her at such a young age, no local authorities or members of the *gram panchayat* (village-level council) intervened. “There was no one I could turn to who would help me,” she told Human Rights Watch.

Weak implementation of education policies is pushing children into labor markets. Many child workers are children of seasonal migrant laborers who come from poor, landless, and marginalized communities. By some estimates, about six million children in India accompany their parents when they migrate for work. As Human Rights Watch research found and other studies have noted, access to schools remains one of the biggest hurdles for migrant children. Many work sites are distant from schools and when migrant children return to their homes after migration season, they are far behind in classes.

Ten-year old Reema migrated from Chhattisgarh to Gurgaon with her parents in 2010 and since then has spent most of her time on various construction sites. When Human Rights Watch researchers met her, Reema was attending a non-formal education center run by an NGO at the construction site where her family is living. But it was a temporary solution; once her family moved, Reema would be out of school again. Geeta Rawat, a teacher at the NGO-run center, said they tried to enroll all children between 6 and 14 years in a government primary school nearby, but it was a challenge. She said: “Teachers are reluctant to admit these children because they know the children will move away from here after a few months.” The Right to Education Act includes a provision addressing the needs of migrant children but it remains poorly implemented.

Failures in State Responses

The Indian government recognizes that a combination of factors results in the exclusion of marginalized children from the education system. The Right to Education Act defines equity as “not only equal opportunity, but also creation of conditions in which the disadvantaged sections of the society—children of SC [Scheduled Caste], ST [Scheduled Tribe], Muslim minority, landless agricultural workers and children with special needs, etc. can avail of the opportunity.” Its guidelines for implementation of the act recognize that ensuring such children get an adequate education requires not only the availability of schools within a specified distance of their homes, but also “an understanding of the educational needs and predicament of the traditionally excluded categories.”

Unfortunately, in the schools we examined, this understanding was not being put into practice. Not only do education authorities fail to create conditions conducive to attendance by children from marginalized communities, but schools have little capacity to address the learning needs of children who enroll in schools at a later age or when they return after dropping out. The new law requires that all children be admitted in age-appropriate classes to help with their retention. To enable this, it provides for special bridge courses of between three months and two years so that these children can catch up and integrate better.

The schools we visited in rural areas, however, rarely had any capacity for such special training. Instead, schools and education officials often denied they had any significant number of out-of-school children or dropouts to warrant such special classes. One school principal in Azamgarh district of Uttar Pradesh told Human Rights Watch:

If a child comes to us for enrollment in school when he is 10 years old and hasn't even learned the basics, then we put the child's age as 6 and enroll him in class I. If we put them in an age-appropriate higher class and pay special attention to one child, then we can't teach any other child.

Not surprisingly, children who work are less likely to go to school than those who do not. According to UNICEF, India has the world's largest number of child workers aged 5 to 14 years—13 million—and a large majority of them are Dalits, members of Scheduled Tribes, and other minorities. Human Rights Watch found that interventions to bring working children back into age-appropriate classrooms are largely ineffective. India has both laws and policies to address child labor but, by the government's own admission, monitoring at the state level is mostly nonexistent. Without monitoring, at-risk children are less likely to be identified and steps to address their situation are less likely to be initiated.

One evident problem is the lack of coordination between the various ministries and departments in charge of different aspects of child protection—such as those dealing with labor, education, tribal welfare, and social justice. For instance, the Labor Department, rather than the Education Department, runs the bridge schools for children released from child labor. A senior labor official in eastern Uttar Pradesh expressed frustration at his department being tasked with handling the education of former child

workers, saying it was not equipped to do so. “When we find large numbers of children in labor and rescue them, we don’t have the capacity to tackle [all of the associated issues],” he said. “If we rescue five children, it takes us four days to complete all the procedures and follow up on rehabilitation.”

The Right to Education Act envisions local communities, and parents in particular, playing a key role in ensuring the act’s provisions are followed and children’s rights are protected. It aims to increase community involvement with schools through school management committees (SMCs), which consist of school administrators, a member of the local authority, and parents. But in the districts we visited, the SMCs were largely non-functioning, and where they had been put into place, were mostly ineffectual. Capacity building, to make these committees useful in ending discrimination and ensuring education for all, remains to be accomplished.

Ensuring the success of India’s Right to Education Act is an ambitious and worthy project. There have already been notable gains since the law was enacted in 2009. Most obviously, there are a lot more schools and a lot more students enrolled in and attending those schools. Numerous impoverished and illiterate parents from marginalized communities told Human Rights Watch that they welcome the expanded opportunity and would like their children to be educated. At the same time, many of the parents complained about the lack of proper facilities, discrimination, poor teaching, and poor attendance of teachers. And far too many children are still dropping out.

Until the government creates and enforces protocols to monitor vulnerable children, and ensures that schools become inclusive child-friendly places of learning for marginalized children, the project will falter. This monitoring should not be restricted to the occasional inspection of attendance registers. School authorities have been known to falsify attendance records to evade accountability for failure to retain children in the school system, and several school officials we spoke with openly admitted to having done so.

The Right to Education Act empowers the National Commission for the Protection of Child Rights to monitor the act’s implementation, but the commission has not been provided with staff and independent capacity to perform this role effectively. In addition, the commission is under the Ministry of Women and Child Development and has to monitor the Ministry of Human Resource Development which oversees education. The Ministry of

Human Resource Development is also the commission's funding body—creating a conflict of interest. Political and bureaucratic interference are also undermining commissions at the state level. And a grievance redress mechanism, crucial for effective implementation of the act, still does not exist in all states.

India as a party to core international human rights treaties has an obligation to promote and protect the right to education. National and state governments must ensure compulsory and free primary education for all children, remove barriers to education, including for children who work, and end discrimination against minority students. Seeing to it that these standards are met, through systematic monitoring and accountability mechanisms, is crucial if India is to meet the educational goals set out in the Right to Education Act.

Key Recommendations

- The Indian government should take steps for the effective implementation of the Right to Education Act that focus not simply on enrollment, but on the retention of every child in school at least until age 14. An essential first step is creating and implementing a system to monitor and track all children from the time they are enrolled to the time they graduate grade VIII, and a uniform protocol for identifying children who are out of school, have dropped out, or are at risk of dropping out.
- The government should develop clear standards for monitoring children at risk of dropping out, and develop mechanisms to ensure relevant authorities undertake social mapping, especially in marginalized communities, engage with minority communities, and intervene to ensure that children who have left school can return.
- The government should develop clear indicators to improve the detection of and response to discrimination in schools. The National Commission for Protection of Child Rights should develop guidelines to address discrimination and other abuses of children, and set out appropriate disciplinary measures.
- The government should instruct the Ministry of Human Resource Development to develop guidelines and manuals for teachers that set forth good practices for social inclusion and equity, such as encouraging children from marginalized communities to participate in school activities, ensuring more frequent collaboration between children of different castes, and promoting innovative activities aimed at inclusion.

Methodology

This report is based on Human Rights Watch field research primarily in Uttar Pradesh, Bihar, and Andhra Pradesh states in India between October 2012 and September 2013. We interviewed nearly 160 people including 85 children. These include 35 children in Uttar Pradesh, 16 in Bihar, 15 in Andhra Pradesh, 4 in Haryana, and 15 in Delhi. We also interviewed 45 parents including some that participated in group discussions. We spoke with 32 school staff including both teachers and school principals. We also met with officials at the village, district, state, and national levels. Our research was assisted by child rights organizations, academics, and experts in education.

We selected Uttar Pradesh and Bihar states because their elementary education enrollment and retention rates are among the lowest in India; elementary school attendance rates in each are below 60 percent. Uttar Pradesh, India's most populous state, also has the highest proportion of out-of-school girls aged 11 to 14—more than 11 percent in 2012.

We looked at the southern state of Andhra Pradesh because of recent successful educational initiatives there. While it still has high numbers of children out of school and engaged in labor (second nationally after Uttar Pradesh), the situation has significantly improved in the last decade. We also conducted research in the city of Gurgaon in Haryana state, where there is a construction boom, to examine conditions facing migrant children. To better understand the situation in major cities, we conducted interviews in New Delhi.

We did not undertake surveys or a statistical study, but instead base our findings on extensive interviews, supplemented by our analysis of a wide range of published materials. Local groups were invaluable in helping us identify those children most at risk of being excluded from schools. While we met with well over 100 children, we conducted interviews only with those who were comfortable speaking with us either separately, with their friends, or in the presence of an adult they trusted, usually a parent or a member of a local organization. Interviews were conducted in Hindi except in Andhra Pradesh state, where we worked with a Telugu language interpreter.

The names of all children have been changed to protect their identities. In some cases, names of their villages have also been withheld for the same purpose.

I. Providing Universal Access to Education

When India gained independence in 1947, its literacy rate was only 14 percent, with female literacy an abysmal 8 percent. Only one child in three had an opportunity to enroll in primary school.¹

In the ensuing decades, successive governments have focused resources on education, which has long been viewed as central to addressing India's many other challenges including poor health care, rapid population growth, high mortality rates, slow economic growth, and acute poverty. This focus is reflected in a current overall national literacy rate of 74 percent and a female literacy rate of 65 percent.² Primary school enrollment has soared to near 100 percent according to government estimates.³

Attitudes have also changed. Parents in India, who traditionally wanted their children to begin contributing to the family income, are increasingly enrolling them in school instead. There is also a growing demand for quality education. The percentage of 6 to 14 year olds enrolled in private schools in rural India, which are seen to provide education superior to that in most government-run schools, has steadily increased, rising from 19 percent in 2006 to 29 percent in 2013.⁴ In urban India, the ratio is much higher.

In 1951, four years after independence, India's first five-year plan noted that educational facilities were "very inadequate" and provided for only 40 percent of children aged 6 to 11 and 10 percent of children aged 11 to 17.⁵ By year 2000, the number of primary schools had

¹ Ministry of Human Resource Development, Government of India, "Efforts to Eradicate Illiteracy in India," September 2008, <http://pib.nic.in/newsite/erelease.aspx?relid=42161> (accessed July 31, 2013).

² "India's literacy rate rises to 74%: Census," *Press Trust of India*, March 31, 2011, <http://www.livemint.com/Politics/UtHyRhLul24cT4TlhgyrQN/India8217s-literacy-rate-rises-to-74-Census.html> (accessed July 31, 2013).

³ National University of Educational Planning and Administration, "District Information System for Education statistics for 2011-2012," <http://dise.in/Downloads/Publications/Publications%202011-12/Flash%202011-12.pdf> (accessed November 1, 2013), p. 36.

⁴ ASER Centre, "ASER 2013 (Rural) Findings from the Annual Status of Education Report," 2013, http://img.asercentre.org/docs/Publications/ASER%20Reports/ASER_2013/ASER2013_report%20sections/thenationalpicture.pdf (accessed January 20, 2014), p. 7.

⁵ Planning Commission, Government of India, "1st Five-Year plan (1951-1956)," <http://planningcommission.nic.in/plans/planrel/fiveyr/1st/1planch33.html> (accessed July 31, 2013).

increased more than three times from 210,000 in 1951 to 642,000 and the number of upper primary schools had increased from 13,600 in 1951 to 198,000.⁶

“Education for All”

To ensure universal access to elementary education, in 2001 the government of India launched its most ambitious program, Sarva Shiksha Abhiyan, meaning “Education for All.”⁷ The program includes a variety of government initiatives, such as building new schools and additional classrooms, providing toilets and drinking water, and conducting regular teacher trainings.⁸

When the program was started in 2001, 32 million children were not attending school. By government estimates, this number dropped to 2.2 million in 2013.⁹ The overall illiteracy rate came down from 35 percent to 26 percent between 2001 and 2011.¹⁰

In 2004-05, the central government imposed a tax levy of 2 percent to mobilize additional funds for the flagship education program.¹¹ In 2008-09, an additional 1 percent was added for higher education.¹² The government also received funds from several international donors.¹³

⁶ Planning Commission, Government of India, “10th Five-Year plan (2002-2007),” http://planningcommission.nic.in/plans/planrel/fiveyr/10th/volume2/v2_ch2_2.pdf (accessed July 31, 2013), p. 24.

⁷ Ministry of Human Resource Development, Government of India, “Sarva Shiksha Abhiyan,” undated, <http://mhrd.gov.in/schemes> (accessed July 20, 2013).

⁸ Ministry of Human Resource Development and Department of School Education and Literacy, Government of India, “Report of the Committee on Implementation of the Right of Children to Free and Compulsory Education Act, 2009 and the Resultant Revamp of Sarva Shiksha Abhiyan,” April 2010, <http://ssa.nic.in/quality-of-education/rte-reporting-by-anil-bodia-committee> (accessed July 1, 2013).

⁹ Ministry of Human Resource Development, Government of India, 18th Joint Review Mission: 17th to 24 June, 2013, “Results Framework to Monitor SSA Goals” http://ssa.nic.in/monitoring-documents_old/jrm/18th%20JRM/Result%20Monitoring%20Framework.pdf (accessed April 3, 2014). The joint review conducted by the government and its development partners itself expressed concern over the accuracy of the latest numbers of out-of-school children.

¹⁰ Kavita Chowdhury, “Only 57 per cent children going to school: RTE Act report,” *Mail Today*, April 4, 2011, indiatoday.intoday.in/story/only-57-per-cent-children-going-to-school-rte-act-report/1/134270.html (accessed August 15, 2013).

¹¹ Ministry of Finance, Government of India, “Union Budget 2004-2005,” July 8, 2004, <http://indiabudget.nic.in/ub2004-05/bh/bh1.pdf> (accessed October 28, 2013), p. 11.

¹² Ministry of Finance, Government of India, “Union Budget 2008-2009,” undated, <http://indiabudget.nic.in/ub2008-09/mem/mem1.pdf> (accessed October 28, 2013), p. 4.

¹³ The Indian government received approximately US\$1.85 billion from the World Bank’s International Development Association between 2004 and 2012; US\$463 million between 2008 and 2012 from the UK’s Department for International Development, see UK Department for International Development, “Universal Elementary Education (Sarva Shiksha Abhiyan II),” December 6, 2012, <http://devtracker.dfid.gov.uk/projects/GB-1-114487/> (accessed November 6, 2013); and US\$264 million from the European Commission between 2000 and 2008, see European Commission, “Development and Cooperation,” undated, http://ec.europa.eu/europeaid/where/asia/country-cooperation/india/india_en.htm (accessed July 31, 2013).

Mid-Day Meal Scheme

To address chronic child malnourishment and encourage school enrollment and attendance, the central government started the Mid-Day Meal scheme in 1995. Under this plan, every child enrolled in grades I to VIII in a government or government-aided school is provided free cooked lunch. Over the last decade, the scheme has been expanded to cover several types of schools beyond those run by the government, including recognized and unrecognized *madrasas* (Muslim religious schools) supported under the Sarva Shiksha Abhiyan.¹⁴ According to the government, the scheme covers about 120 million children and forms 32 percent of the total elementary education budget for 2013-14 at around \$2.2 billion.¹⁵

While the Mid-Day Meal scheme is largely successful in providing one meal a day to poor children, it has had less success in ensuring that children remain in the classrooms. A 2012 PAISA survey by the Accountability Initiative in two districts each of Uttar Pradesh and Bihar states found that only 60 percent of enrolled students received mid-day meals on a given day. The survey noted that the gap was likely a result of irregular attendance. However, it also observed that school-level data on the number of meals served could be inflated. The survey collected student attendance data on the day of the survey and found that the number of meals served, as recorded in the Mid-Day Meal register, was actually higher than the number of students who attended school that day.¹⁶

During the eleventh five-year plan (2007-2012), only 80 percent of the allocated funds were spent.¹⁷ There are huge state-wide variations in utilization of cooking cost allocations and government-supplied food grains.¹⁸

¹⁴ Department of School Education and Literacy, Ministry of Human Resource Development, Government of India, "Mid-Day Meal Scheme," undated, <http://mhrd.gov.in/middaymeal> (accessed June 25, 2013).

¹⁵ Accountability Initiative, "Budget brief for Mid-Day Meal Scheme, 2013-2014," March 2013, http://www.accountabilityindia.in/sites/default/files/mdms_2013-14.pdf (accessed July 9, 2013), p. 1; Accountability Initiative is an initiative of the New Delhi-based think-tank Centre for Policy Research and it tracks government programs. Its flagship project is called PAISA, which develops tools to collect data on fund flows, expenditures, and implementation processes. The project is currently focused on elementary education.

¹⁶ Accountability Initiative, "PAISA Districts Survey on Mid-Day Meals (2012), Provisional," June 2013, <http://mdm.nic.in/Files/OrderCirculars/PAISA-MDM-Report-June-13.pdf> (accessed July 9, 2013), p. 15.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

Constitutional Right to Education

The Right to Education was added to the Indian Constitution in 2002 with the passage of the 86th constitutional amendment.¹⁹ The Right of Children to Free and Compulsory Education Act (“Right to Education Act”) came into force on April 1, 2010.²⁰

The Right to Education Act provides “a justiciable legal framework that entitles all children between 6-14 years to an education of reasonable quality, based on principles of equity and non-discrimination.”²¹ It provides for a child-friendly learning environment and is funded through the Sarva Shiksha Abhiyan. The estimated budget allocation for the program for 2013-14 is approximately US\$4.48 billion.²² Allocation per student at the all-India level under SSA has more than tripled from an average of US\$26 in 2007-08 to US\$77 in 2011-12, but the total allocation varies widely from state to state depending on the state’s own contribution to elementary education.²³

The responsibility for providing primary and secondary education lies with state governments and local authorities. Funding comes from both central and state governments. The relevant local authority is the *panchayat* (elected community council) at the village level; the *zila parishad* (local government body) at the district level; and municipal corporations in cities or towns. The Right to Education Act relies on school management committees (SMCs)—composed of parents, the head teacher, and a member of the local government—as a decentralized mechanism to improve schooling. It envisions active community involvement in the management and supervision of schools.

At the national level, the task of monitoring and grievance redress falls to an independent statutory body, the National Commission for Protection of Child Rights (NCPCR), under the Ministry of Women and Child Development. At the state level, the task is entrusted to state

¹⁹ The Constitution (86th Amendment) Act, 2002, http://www.azimpremjifoundation.org/pdf/86th_Amendment_to_the_Constitution.pdf (accessed July 1, 2013).

²⁰ The Right of Children to Free and Compulsory Education Act, 2009, No. 35 of 2009, <http://www.azimpremjifoundation.org/sites/default/files/userfiles/files/RTE-Act.pdf> (accessed June 20, 2013).

²¹ Ministry of Human Resource Development and Department of School Education and Literacy, Government of India, “Report of the Committee on Implementation of the Right of Children to Free and Compulsory Education Act, 2009 and the Resultant Revamp of Sarva Shiksha Abhiyan,” April 2010, <http://ssa.nic.in/quality-of-education/rte-reporting-by-anil-bodia-committee> (accessed July 1, 2013).

²² Ministry of Finance, Government of India, “Union Budget 2013-14,” 2013, <http://indiabudget.nic.in/ub2013-14/bh/bh1.pdf> (accessed August 1, 2013), p. 3.

²³ Accountability Initiative, “Budget Brief, Sarva Shiksha Abhiyan, Government of India,” 2013-14, http://www.accountabilityindia.in/sites/default/files/ssa_2013-14.pdf (accessed January 21, 2014)

commissions for protection of child rights, where they exist.²⁴ The commissions have the powers of a civil court.²⁵



A primary school in Gaya district in Bihar state holds some classes and the mid-day meal outdoors because of a lack of classrooms. During the monsoon season it becomes a major problem, says the principal. © 2013 Jayshree Bajoria/Human Rights Watch

The Right to Education Act laid down a three-year deadline for all states to meet most of the targets under the law, such as adequate infrastructure and increased appointment of teachers to meet the prescribed student-teacher ratios. While there has been significant progress, most states missed the deadline even in meeting basic infrastructural needs such as separate toilets for boys and girls, access to drinking water, and an adequate number of classrooms. According to one report by a collective of education rights groups,

²⁴ Government of India, “National Commission for Protection of Child Rights,” undated, <http://ncpcr.gov.in/> (accessed March 18, 2014).

²⁵ Right of Children to Free and Compulsory Education Act, 2009, No. 35 of 2009, section 31 http://www.ncpcr.gov.in/Acts/gazette_right_to_education_bill_2009.pdf (accessed March 18, 2014).

less than 10 percent of India's government schools in 2012-13 were compliant with the Right to Education Act (RTE) in terms of infrastructure and teacher availability.²⁶

The same report concluded that adequate processes had not been put in place for tracking children's attendance, mapping exclusion, and setting up "bridge" courses to enable children who drop out or start school at a later age to catch up to their peers and enroll in age-appropriate classes. While net enrollment in primary schools is now almost at 100 percent, regular attendance and retention is a major challenge, particularly when it comes to the country's most vulnerable and marginalized communities.

Indian education specialists have criticized the government's failure to allocate adequate financial resources to successfully implement the act.²⁷ Despite making promises to allocate 6 percent of the national income to education as far back as 1968, successive governments have invested less than 4 percent.²⁸

Challenges to the Right to Education Act

The Right to Education Act seeks major improvements in India's educational system but it has been mired in controversy since before it was enacted. Some education specialists in favor of a common school system believe that it fails to provide equitable education to all since it permits private schools. They contend that it allows "continued discrimination by legitimizing two distinct parallel streams; inequitable, multi-layer and low-quality education system for the poor children, and so-called quality education to the elite section through various other means."²⁹

²⁶ RTE Forum, "Status of Implementation of the Right of Children to Free and Compulsory Education Act, 2009: Year Three (2012-13)," draft report, April 2013, <http://www.rteforumindia.org/sites/default/files/RTE%20Forum%20Draft%20Stocktaking%20Report%202013.pdf> (accessed October 25, 2013), p. 7; RTE Forum is a collective of national education networks, teachers' organizations, and educationists working to bring systemic reform in education.

²⁷ Ibid.

²⁸ Ibid. The Education Commission, popularly known as the Kothari Commission, recommended in 1966 that education be accorded the highest priority and 6 percent of the national income be allocated to it. The government approved this and stated it in the 1968 National Policy on Education. This was reiterated in the 1986 and the 1992 national policies on education.

²⁹ Niranjanaradhya V P, "Equitable quality education is every child's birthright," *Deccan Herald*, March 25, 2009, <http://archive.deccanherald.com/Content/Mar252009/panorama20090324126069.asp> (accessed July 1, 2013).

At the same time, private institutions have also challenged the act since it requires that all private schools reserve 25 percent of their seats for “children belonging to weaker section[s] and disadvantaged group[s]” in the neighborhood.³⁰ Several private schools said this provision will affect their financial viability, in practice forcing a fee hike upon other students, and filed petitions contesting the provision. In April 2012, the Supreme Court upheld the constitutional validity of the act.³¹ Media reports, however, suggest that many private schools around the country have failed to implement the law.³²

International Law

India is a party to core international human rights treaties that place binding legal obligations on the Indian central and state governments. Those with particular relevance to universalization of elementary education are the International Covenant on Economic, Social and Cultural Rights (ICESCR),³³ the Convention on the Rights of the Child (CRC),³⁴ the International Covenant on Civil and Political Rights (ICCPR),³⁵ and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).³⁶

International law provides for the right of everyone to education. Primary education shall be “compulsory and available free to all.” Secondary education shall be made generally available and accessible to all. In addition, for those who have not received or completed their primary education, “[f]undamental education shall be encouraged or intensified.”³⁷ Governments also have an obligation to “[t]ake measures to encourage regular attendance at schools and the reduction of drop-out rates.”³⁸

³⁰ The Right of Children to Free and Compulsory Education Act, 2009, No. 35 of 2009, section 12, <http://www.azimpremjifoundation.org/sites/default/files/userfiles/files/RTE-Act.pdf> (accessed June 20, 2013).

³¹ *Society for Unaided Private Schools of Rajasthan v. U.O.I. & Anr.*, Supreme Court of India, Writ Petition (C) No. 95 of 2010, Judgment, April 12, 2012, http://righttoeducation.in/sites/default/files/supremecourt_judgement_RTE_13_April_2012.pdf (accessed July 1, 2013).

³² “Fresh protests over schools without 25% quota under RTE,” *Mid-Day*, February 13, 2013, <http://www.mid-day.com/news/2013/feb/130213-pune-fresh-protests-over-schools-without-25-percent-quota-under-rte.htm> (accessed June 15, 2013); Joint Operation for Social Help, “SC Verdict on Right to Education Act,” April 19, 2012, <http://josh4india.org/sc-verdict-on-rte-an-eye-wash-to-the-community/> (accessed July 1, 2013).

³³ International Covenant on Economic, Social and Cultural Rights (ICESCR), G.A. res. 2200A (XXI), 993 U.N.T.S. 3, entered into force January 3, 1976, acceded to by India on April 10, 1979.

³⁴ Convention on the Rights of the Child, G.A. res. 44/25, U.N. Doc. A/44/49, entered into force September 2, 1990, ratified by India on December 11, 1992.

³⁵ International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 999 U.N.T.S. 171, entered into force March 23, 1976, acceded to by India on April 10, 1979.

³⁶ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), G.A. res. 34/180, entered into force September 3, 1981, ratified by India on July 9, 1993.

³⁷ ICESCR, art. 13(2); CRC, art. 28(1).

³⁸ CRC, art. 28(1)(e).

International law prohibits discrimination on the basis of religion, ethnicity, social origin, or other status.³⁹ Education should foster development of respect for a child’s “cultural identity, language and values.”⁴⁰ According to the Committee on Economic, Social and Cultural Rights, the international expert body that monitors implementation of the ICESCR, prohibition against discrimination “is subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education.”⁴¹ A government that fails to provide a significant number of individuals “the most basic forms of education is, prima facie, failing to discharge its obligations” under the right to education.⁴²

Upholding the rights of Indian children to education also means promoting and protecting other rights, such as the restrictions on child labor, and protections for minorities and displaced persons.

Communities and families that are dependent on child labor are less able to ensure their children get a proper education.⁴³ The ICESCR requires governments to protect “children and young persons . . . from economic and social exploitation.”⁴⁴ The CRC obliges governments to “recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.”⁴⁵ The convention directs states to implement these protections through appropriate legislative, administrative, social, and educational measures.⁴⁶

³⁹ See, e.g. CRC, art. 2.

⁴⁰ Ibid., art. 29(1)(c).

⁴¹ Committee on Economic Social and Cultural Rights (CESCR), General Comment 13, “The right to education (Art. 13),” E/C. 12/1999/10, para. 31.

⁴² CESCR, General Comment 3, “The nature of states parties obligations (Art. 2, para. 1),” 1990, E/1991/23. See also, Committee on the Rights of the Child, General Comment 7, “Implementing Child Rights in early Childhood,” 2005, CRC/C/GC/7/Rev.1 (“potential discrimination in access to quality services for young children is a particular concern, especially where health, education, welfare and other services are not universally available and are provided through a combination of State, private and charitable organizations”).

⁴³ CESCR, General Comment 13, “The right to education (Art. 13),” E/C. 12/1999/10; see also International Labor Organization, Convention No. 182 on the Worst Forms of Child Labor, art. 7(2).

⁴⁴ ICESCR, arts. 7, 10.

⁴⁵ CRC, art. 32.

⁴⁶ Ibid.

India's domestic laws ban children under 14 working in hazardous industries and processes. The government is considering an amendment that will ban children from working in all industries under 14.⁴⁷

The UN Declaration on the Rights of Indigenous Peoples provides that governments should ensure that indigenous children have the right to all levels and forms of state education without discrimination.⁴⁸ Governments, in consultation and cooperation with indigenous peoples, should “take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely...to interfere with the child's education.”⁴⁹

With respect to internally displaced persons, the UN Guiding Principles on Internal Displacement provides that the authorities shall ensure that displaced children receive education and that educational facilities shall be made available to them.⁵⁰

Ensuring that the rights of India's children are protected requires effective monitoring. The UN Child Rights Committee has stated that governments have an obligation to “monitor the availability of and access to quality services that contribute to young children's survival and development.”⁵¹

⁴⁷ Child Labour (Prohibition and Regulation Act), 1986, No. 61 of 1986
http://labour.nic.in/upload/uploadfiles/files/Divisions/childlabour/ChildLabourAct%20_16_.pdf (accessed March 18, 2014);

For a list of occupations and processes prohibited under the Act, see

<http://labour.nic.in/upload/uploadfiles/files/Divisions/childlabour/THE%20SCHEDULE.pdf> To make this legislation compliant with the Right to Education Act, which guarantees compulsory education for all children under 14, the Indian government is considering an amendment to the present law. The Child Labour (Prohibition & Regulation) Amendment Bill, 2012 has been placed in the Parliament and is presently under examination with a parliamentary standing committee.

⁴⁸ UN Declaration on the Rights of Indigenous Peoples, adopted by the UN General Assembly on September 13, 2007, art. 14.

⁴⁹ *Ibid.*, art. 17.

⁵⁰ Guiding Principles on Internal Displacement, U.N. Doc. E/CN.4/1998/53/Add.2 (1998), noted in Comm. Hum. Rts. res. 1998/50, principle 23.

⁵¹ Child Rights Committee, General Comment 7, “Implementing Child Rights in early Childhood,” 2005, CRC/C/GC/7/Rev.1.

II. Exclusion of Children from Marginalized Communities

The Indian government has recognized that exclusion—based on children’s caste, class, gender, and special needs can take many forms and affect access, participation, retention, achievement, and completion of elementary education—is the “single most important challenge in universalising elementary education.”⁵² The Right to Education Act clearly lays out the responsibility of state and local authorities to ensure that poor children and those belonging to disadvantaged groups do not face discrimination or other arbitrary barriers to pursuing and completing their education.⁵³ The government notes the various forms of exclusion of Dalit, tribal, and Muslim children by teachers, peer groups, and government officials.⁵⁴

The government also has acknowledged that it is a combination of several factors that result in exclusion and therefore defines equity as “not only equal opportunity, but also creation of conditions in which the disadvantaged sections of the society ... can avail of the opportunity.”⁵⁵ To ensure inclusion, the government also defines access broadly, going beyond merely making a school available within a specified distance to ensuring schools have “an understanding of the educational needs and predicament of the traditionally excluded categories” such as Dalits, tribal groups, Muslims, girls, and children with special needs.⁵⁶

But rarely are these definitions of equity and access applied in schools. Not only do education authorities fail to create conditions conducive to including children from marginalized communities, but they fail to equip schools with adequate capacity to address the learning needs of these children, who often lack educational support at home, may enroll in schools at a later age, or return to school after a gap.

⁵² Ministry of Human Resource Development, Government of India, 2011 “SSA Framework for Implementation based on Right to Education Act 2009,” March 2011, http://www.upefa.com/upefaweb/admin/myuploads/SSA_Frame_work_%28revised%29_9-6-2011.pdf (accessed August 1, 2013) chapter 3.

⁵³ The Right of Children to Free and Compulsory Education Act, 2009, No. 35 of 2009, section 8 (c) and section 9(c). <http://www.azimpremijifoundation.org/sites/default/files/userfiles/files/RTE-Act.pdf> (accessed June 20, 2013).

⁵⁴ Ministry of Human Resource Development, Government of India, 2011 “SSA Framework for Implementation based on Right to Education Act 2009,” March 2011, http://www.upefa.com/upefaweb/admin/myuploads/SSA_Frame_work_%28revised%29_9-6-2011.pdf (accessed August 1, 2013) chapter 3.

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

Teachers are also frequently insensitive to issues of social inclusion and equity. Local civil society groups working on education have previously reported and our research confirms that some teachers and students address children from marginalized communities using derogatory terms for their caste, tribe, or religion. These children are also often excluded from leadership roles in school such as participation in important school functions or becoming the class monitor. Henri Tiphagne of Tamil Nadu-based NGO People’s Watch, a former state representative for the Right to Education monitoring cell of the National Commission for Protection of Child Rights, said that teachers behave as part of the caste hierarchy and the children emulate them. He told Human Rights Watch, “Right now there’s nothing in the code of conduct for teachers on discrimination.”⁵⁷

Too often, implementing authorities at the state or district level deny that any form of segregation or discrimination takes place in schools, instead of properly enforcing the law and holding teachers accountable.⁵⁸

A 2012 qualitative study commissioned by the government’s flagship education program, Sarva Shiksha Abhiyan, in six states found exclusionary practices in schools and said there was an urgent need for the authorities to acknowledge and address them. The study noted that regular attendance was a serious issue among children from extremely poor and marginalized communities, and that when such children fall behind in learning they are ignored by teachers. The study concluded: “In all six states, teachers preferred to focus on ‘bright’ children who sat in the front rows. This process resulted in a self-perpetuating mechanism leading to exclusion.”⁵⁹

Dalits and Tribal Groups

Despite a constitutional ban on the practice of untouchability, caste-based discrimination persists in India.⁶⁰ Historically, dominant castes have controlled the affairs of villages and

⁵⁷ Human Rights Watch interview with Henri Tiphagne, People’s Watch, New Delhi, August 2013.

⁵⁸ See Appendix I, Guidelines to End Discrimination in Education, created by local civil society groups.

⁵⁹ A Qualitative study commissioned by Sarva Shiksha Abhiyan, see Ministry of Human Resource Development, Government of India, “Inclusion and Exclusion of Children in the School and in the Classroom in Primary and Upper primary schools,” September 2012, http://ssa.nic.in/research-studies-document_old/survey-report-on-out-of-school-children/list-of-studies/National%20Synthesis%20Inclusion-Exclusion%20study.pdf/view (accessed October 29, 2013).

⁶⁰ The Constitution of India has several provisions to safeguard the interests of Scheduled Castes and Scheduled Tribes. Article 14 provides for equality before the law; Article 15 prohibits discrimination on the basis of religion, race, caste, sex, or place of birth; Article 16 provides for equal opportunity in public employment; Article 17 abolishes untouchability; Article 46 calls for promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes, and other weaker sections;

harassment of Dalits is not uncommon. Redress for abuses is difficult because of weak enforcement of protection of Dalit rights laws. There have been efforts to empower Dalits, including Dalit women, such as by ensuring their involvement in local decision-making processes through quotas in panchayat elections. However, Dalit leaders often find it difficult to carry out their duties effectively because of pressure from dominant castes.⁶¹

Tribal communities are often isolated, limiting their access to education. Human Rights Watch found that the impact of such isolation is exacerbated by both subtle and overt exclusion practices, largely due to the intersection between economic disadvantage and social marginalization.

Under the Right to Education Act, the state government and the relevant local authority are expected to ensure that no child is segregated or discriminated against in the classroom, during mid-day meals, in the playgrounds, in the use of common drinking water and toilet facilities, and in performing tasks such as cleaning toilets or classrooms.⁶² However, such segregation and discrimination continue. Satyendra Kumar, Bihar director for New Delhi-based Centre for Social Equity and Inclusion, told Human Rights Watch:

Dalit children continue to be pushed out of the education system because of discriminatory behavior of teachers and institutional exclusion such as poor investment in schools in Dalit habitations. Dalit children are made to feel inferior in schools and the schools reinforce caste norms. When it comes to any manual work such as cleaning of classrooms or picking up garbage, it's always the Dalit children who are asked to do it.⁶³

Articles 243D, 243T, 330, and 332 reserve seats in legislative bodies at various levels. India has also enacted several laws to protect members of Scheduled Castes and Scheduled Tribes. See The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, No. 33 of 1989 http://idsn.org/fileadmin/user_folder/pdf/New_files/India/SC_ST_PoA_Act.pdf (accessed August 10, 2013). See also The Protection of Civil Rights Act, 1955, No. 22 of 1955 <http://socialjustice.nic.in/pcr-act.php> (accessed August 10, 2013); and The Employment of Manual scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, No. 46 of 1993. The latter law forbids the degrading practice of manual scavenging of human excreta, a job mostly done by Dalits.

⁶¹ George Mathew, "Panchayats: Hope for Dalit Rights" *Livemint*, May 1, 2013, <http://www.livemint.com/Politics/h3ezCD61bYNU9maggsfkjM/Panchayatshope-for-dalit-rights.html> (accessed December 15, 2013).

⁶² Model Rules under the Right of Children to Free and Compulsory Education Act, 2009, http://www.ncpcr.gov.in/Model_Rules/RTE_Model_Rules.pdf (accessed September 1, 2013).

⁶³ Human Rights Watch phone interview with Satyendra Kumar, Bihar director, Centre for Social Equity and Inclusion, July 29, 2013.

There are repeated allegations of caste-based discrimination in the Mid-Day Meal scheme.⁶⁴ Dalit children are sometimes asked to sit separately, and dominant caste children are told by parents to refuse food cooked by a Dalit.⁶⁵ “If you see which children in school bring plates from home, it’s always the Dalit children,” said Kumar. “When we ask teachers why they are not given plates in school, the teachers say that the other children won’t eat from the plates Dalit children eat from.”⁶⁶

Language can be a factor of exclusion for tribal children who often do not understand the medium of teaching. A 2012 study found that the “education administration apparatus that oversees the delivery of educational programmes has been developed and deployed in a mode of assimilation and domination which only reproduces the range of inequalities and disadvantages that most Adivasis face.”⁶⁷

Activists also point to institutional exclusion. One way to examine this is to assess the budgetary allocations and utilization of funds. A 2013 report by Centre for Social Equity and Inclusion found that despite a dire need to focus on the educational needs of Dalit and tribal children “the Department of School Education and Literacy seems to be mechanically allocating funds” without proper assessment of what these children really need to be able to access education.⁶⁸

Schools visited by Human Rights Watch in Dalit neighborhoods often lacked toilets, clean drinking water, or the required teacher-student ratio. In many of these schools students sat outside or shared space with another grade because of a lack of classrooms or teachers.

⁶⁴ For more on the Mid-Day Meal scheme, see Chapter I.

⁶⁵ Sukhadeo Thorat and Joel Lee, “Dalits and the Right to Food – Discrimination and Exclusion in Food-related Government Programmes,” Indian Institute of Dalit Studies, 2006, <http://www.dalitstudies.org.in/download/wp/0603.pdf> (accessed August 31, 2013); Akshaya Mukul, “Caste, gender biases blight mid-day meal scheme in four states,” *Times of India*, August 4, 2012, http://articles.timesofindia.indiatimes.com/2012-08-04/india/33034636_1_upper-caste-dalit-children-mid-day-meals (accessed August 31, 2013).

⁶⁶ Human Rights Watch phone interview with Satyendra Kumar, Bihar director, Centre for Social Equity and Inclusion, July 29, 2013.

⁶⁷ National Institute of Advanced Studies and UNICEF, “The Education Question From the Perspective of Adivasis: Conditions, Policies and Structures,” March 2012, <http://eprints.nias.res.in:8081/333/1/R7-2012.pdf> (accessed October 29, 2013).

⁶⁸ Jayshree P. Mangubhai, “25% Is Our Right: Examining SC/ST Exclusion Through Budgets in School Education,” Centre for Social Equity and Inclusion and Swadhikar, 2013, <http://www.ncdhr.org.in/resources/publications/daaa-publication/Institutional%20Exclusion%20in%20Education-2.pdf> (accessed December 1, 2013).

A comparison of dropout rates shows the scope of the challenge. Elementary school dropout rates for children from Scheduled Castes and Scheduled Tribe are 51 percent and 58 percent, respectively, much higher than the 37 percent rate for non-Scheduled Caste/Scheduled Tribe children.⁶⁹

A significant number of girls from these communities drop out when they are close to puberty without completing education through grade VIII. According to government statistics, the dropout rate among adolescent girls is as high as 64 percent.⁷⁰ Girls from Dalit, tribal, and Muslim communities are particularly vulnerable to child marriage because parents fear exposure to risks of sexual abuse. These are largely wage earning families; parents worry about leaving a post-pubescent girl alone at home, and prefer to marry them early. The Right to Education Act provides that there should be no discrimination against children from “disadvantaged groups” on any grounds, including gender.⁷¹

Vijay and Shyam in Pindra, Uttar Pradesh

In 2010, 22 Dalit children of the Musahar community from a hamlet in Pindra stopped going to school after various acts of discrimination and physical violence against them by the principal and teachers. Vijay, 14, told Human Rights Watch he dropped out after being beaten:

The teacher didn't let us go to the toilet. One day, I asked her for permission to go to the toilet but she said, 'Sit down, go later.' So I urinated outside the window and she hit me so hard with a stick that my hand broke. I went to the hospital to get my hand bandaged. I had my hand in bandage for 10 days. Even now when I am working, I feel a lot of pain.⁷²

⁶⁹ Planning Commission, Government of India, “12th Five-Year plan (2012-2017), Social Sectors, Volume III,” 2013, http://planningcommission.gov.in/plans/planrel/12thplan/pdf/vol_3.pdf (accessed July 1, 2013).

⁷⁰ Ministry of Women and Child Development, Government of India, “Report of the Working Group on Child Rights for the 12th Five year Plan (2012-2017),” December 16, 2012, <http://www.wcd.nic.in/reportwgdtdo1032012.pdf> (accessed July 9, 2013).

⁷¹ Ministry of Human Resource Development and Department of School Education and Literacy, Government of India, “Report of the Committee on Implementation of the Right of Children to Free and Compulsory Education Act, 2009 and the Resultant Revamp of Sarva Shiksha Abhiyan,” April 2010, <http://ssa.nic.in/quality-of-education/rte-reporting-by-anil-bodia-committee> (accessed July 1, 2013).

⁷² Human Rights Watch interview with Vijay (pseudonym), Pindra village, Varanasi district, Uttar Pradesh, March 20, 2014.

Shyam, 14, told Human Rights Watch that the children were excluded, and sometimes beaten:

The teacher always made us sit in a corner of the room, and would throw keys at us [when she was angry]. We only got food if anything was left after other children were served. The teacher hit my classmate [Vijay] so hard that she broke his hand. After this incident, gradually all Musahar children stopped going to school.⁷³

Activists from a local nongovernmental organization, People's Vigilance Committee on Human Rights (PVCHR), found that the principal asked the Dalit children to form a separate queue during morning prayers.⁷⁴ Inside the classroom, the teacher asked them to sit separately in a corner, segregating them from other children.⁷⁵ When the mid-day meals were served, the Dalit children were served last.⁷⁶ Once when a Dalit child asked for food at the beginning of lunchtime, the cook allegedly poured hot *khichdi* (a rice dish cooked with lentils) over his hand, causing burn injuries.⁷⁷

Based on the NGO findings, in 2011, law students in Allahabad filed a public interest petition in the High Court.⁷⁸ After the court ordered the district magistrate to conduct an inquiry, the education department found charges of discrimination to be true and transferred the school principal and some teachers out of the district.⁷⁹ Meanwhile, all the children were admitted into another primary school nearby in 2011. But by then, most of them were scared of going to school and had lost interest in studies. They attended school irregularly, instead helping out with work at home or in the fields. Eventually, all of them dropped out.⁸⁰

⁷³ Human Rights Watch interview with Shyam (pseudonym), Pindra village, Varanasi district, Uttar Pradesh, April 15, 2013.

⁷⁴ Human Rights Watch interviews with members of People's Vigilance Committee on Human Rights, a nongovernmental organization based in Varanasi, Uttar Pradesh, April 15, 2013.

⁷⁵ Human Rights Watch interviews with Musahar children in Pindra village, Varanasi district, Uttar Pradesh, April 15, 2013.

⁷⁶ Human Rights Watch interviews with members of PVCHR and conversations with Musahar children in Pindra village, Varanasi district, Uttar Pradesh, April 15, 2013. Also information gathered from clippings in Hindi newspapers Amar Ujala, June 3, 2011; Dainik Jagaran, July 10, 2011. Copies of these are on file at Human Rights Watch.

⁷⁷ Ibid.

⁷⁸ *Luv Saggi and others v. State of U.P. and others*, Public Interest Litigation (PIL) No. 35961 of 2011.

⁷⁹ Human Rights Watch procured the documents of the investigation conducted by the education department.

⁸⁰ Human Rights Watch interview with students who had dropped out of school, Pindra village, Varanasi district, Uttar Pradesh, April 15 2013.

Vijay said they didn't follow anything being taught in class and therefore, did not like to go to school:

When our studies were interrupted [after dropping out of the first school because of discrimination] we grew older and in the new school, the other children in the class were younger. So we used to feel embarrassed. That's why we dropped out because everyone would say see he is so old but doesn't know how to read.⁸¹

Shruti Nagvanshi of PVCHR, the NGO which fought for justice for these children, said "the end result is that these children are still out of school." She added that sadly, nothing had changed: "Neither the children nor the society received the message that justice was served."⁸²

Naresh in Kamtachak, Bihar

Discriminatory behavior by teachers and children in a government primary school has led most Dalit children from Kamtachak village in Bihar's Patna district to attend school irregularly or drop out. Naresh, 12, studies in grade III but often misses school. He said it is because his clothes are dirty and he is afraid of the teacher's scolding:

I don't go to school when my clothes are dirty. It happens once or twice a week. The teachers say, 'You wear dirty clothes, go sit in the back.' The children from Beldar community⁸³ tell us we don't bathe and taunt us.⁸⁴

Dalit children from the hamlet complain that children from other castes call them by their caste name in a derogatory manner, and do not mingle with them or include them when they are playing. Naresh says he and other Dalit students have been also forced to massage a senior teacher's legs and clean the teachers' toilet:

⁸¹ Human Rights Watch interview with Vijay (pseudonym), Pindra village, Varanasi district, Uttar Pradesh, March 20, 2014.

⁸² Interview with Shruti Nagvanshi, Founder, People's Vigilance Committee on Human Rights, a nongovernmental organization based in Varanasi, Uttar Pradesh, March 19, 2014.

⁸³ Beldar is listed under the Other Backward Class (OBC) category; Beldars enjoy higher status in the caste hierarchy than Dalits.

⁸⁴ Human Rights Watch interview with Naresh (pseudonym), Kamtachak village, Patna district, Bihar, July 13, 2013.

We were asked to massage a teacher's legs. If we refused, he used to beat us. There was a toilet for teachers, which is the one we had to clean.⁸⁵

The teacher belonged to a higher caste and only students from the Musahar community were asked to massage his legs. Naresh's neighbor Sanjay says he pulled his oldest son out of the local government school and put him in a private school because of such discriminatory behavior:

The teacher should teach, give knowledge. At this school the children were being asked by the teacher to massage his legs. He beat the children. And when I went to complain about all this, the teacher beat them some more.⁸⁶

Sanjay added that the children were not given money for scholarship or uniforms because they did not have regular attendance. In Bihar, as per government directions, the schools only offer benefits to children with at least 75 percent attendance in order to encourage proper schooling and retention. But Sanjay says that children did not attend school because of the unfriendly environment there:

They don't learn anything, and are asked to sit separately, served food last when there is often nothing left. The Kurmi⁸⁷ children are asked to sit in front. They chase away the Musahar children and feed the higher caste first. They give leftovers to our children.⁸⁸

Rajesh in Mittenchak, Bihar

The family of Rajesh, 10, migrated to Mittenchak because of the discrimination and violence they and other Dalits faced from dominant caste villagers in Sonama village, Bihar. The family sought to escape the harassment from the Yadav community, said Rajesh's mother: "It is because of the fear of the Yadavs, we came here. We don't have any fear here. There, the Yadavs could enter any Dalit's house at any time in the night, beat anyone up."⁸⁹

⁸⁵ Ibid.

⁸⁶ Human Rights Watch interview with Sanjay (pseudonym), Kamtachak village, Patna district, Bihar, July 13, 2013.

⁸⁷ Kurmi is listed under the Other Backward Class (OBC) category; Kurmis enjoy higher status in the caste hierarchy than Dalits.

⁸⁸ Human Rights Watch interview with Sanjay, Kamtachak village, Patna district, Bihar, July 13, 2013.

⁸⁹ Human Rights Watch interview with Rajesh's mother, Mittenchak village, Patna district, Bihar, July 12, 2013.

Rajesh said that discrimination faced by Dalits in his previous village also extended to the local government school where he was enrolled in grade III. He told Human Rights Watch:

Only the Yadav [dominant caste] children got money for school uniforms. We didn't get any. Every day, there were fights between the children of Yadavs and Dalits. Instead of trying to put a stop to the fights, the teacher egged everyone on saying, 'Let's see who wins.' The Yadavs used to beat us up. Then they used to go and complain to their parents and their parents came and scolded us.⁹⁰

The move interrupted Rajesh's schooling and since leaving Sonama, he has been out of school. When Human Rights Watch spoke to his mother, she said they had not tried to enroll Rajesh in the local school in Mittenchak because they did not have proper documents and assumed he would not be admitted. Parents frequently do not have information about the Right to Education Act and fail to take advantage of the benefits guaranteed under the law. Often this is because the teachers themselves are unaware of all the provisions of the act and fail to raise awareness among parents.

Madhu in Patna, Bihar

In January 2013, Madhu, 10, testified at a public hearing held by the National Commission for Protection of Child Rights. A Dalit from the Musahar community, she told dozens of children and parents how she was chased away from the local government school by the teachers because of caste-based bias.⁹¹

In Patna, the Bihar state capital, there is a government middle school right outside the settlement where Madhu lives. But according to a local activist, until recently nearly 120 children aged 6 to 14, all of them Dalit, were out of school. After the public hearing, some of the teachers were suspended and a new principal was brought in. According to the school principal, the school now has over 900 children studying in grades I to VIII, of whom about 50 are Dalit.

⁹⁰ Human Rights Watch interview with Rajesh (pseudonym), Mittenchak village, Patna district, Bihar, July 12, 2013.

⁹¹ Human Rights Watch interview with Madhu (pseudonym), Musahar slum, Patna city, Bihar, July 16, 2013.

While many Dalit children were enrolled at the time of our visit, discrimination persisted. Many of the Dalit children were often absent from school, apparently at least in part because of continued discriminatory treatment. Madhu, enrolled in grade II, was among those who had been attending irregularly. She said:

When I go to school and sit in class, often the other children ask us to go and sit somewhere else. They say, ‘You people don’t bathe. You are rag pickers.’ We don’t say anything. If they complain about us, the teacher asks us to shut up. And if we complain, the teacher says nothing.

We don’t get plates for mid-day meals. The other children get plates in school. But we have to take plates from home. If we ever pick up the plates kept in school, the other children snatch the plates away from us. Those children don’t play with us. I have not gone to school for a month because the children there say ‘Don’t come to school.’⁹²

Madhu’s mother said the children are targeted because many of them work as rag pickers, a person who earns money scavenging through refuse: “Even if our children touch other children by accident in school, they ask our children to move away. When our children go to school they say ‘rag pickers have come.’”⁹³

The school principal, Pankaj Kumar, denied there was any discrimination in school. But he admitted that Dalit children attended regularly only when a volunteer from a nongovernmental organization brought them himself every day. Kumar said that the school teachers are not comfortable going to the Dalit slum to motivate parents to send their children to school:

Even if we want to send any staff member to call the children or to speak with parents, they don’t want to go into the Musahar slum. They are up in arms if I ask them to go because it’s dirty there and the teachers also look down upon these children.⁹⁴

⁹² Ibid.

⁹³ Human Rights Watch interview with Madhu’s mother, Musahar slum, Patna city, Bihar, July 16, 2013.

⁹⁴ Human Rights interview with Principal Pankaj Kumar, Kumhrar middle school, Patna city, Bihar, July 16, 2013.

He added that tying benefits such as scholarship money and money for uniforms to attendance is problematic and further demoralizes Dalit children:

We give money only when children have 75 percent attendance. But if children don't get money, they don't come to school because they get demoralized. We can't expect children from backward communities to have 75 percent attendance.⁹⁵

Priya in Gaya, Bihar

Priya, 12, first became conscious of what it means to be from a Dom community—a Dalit population mostly engaged in work as sweepers and garbage collectors—two years ago when her classmates in Gaya city in Bihar used the term disparagingly. She told Human Rights Watch:

I never knew about caste or what Dom is. I first came to know when I was in Class V. All the children used to make fun of me and say, 'You are Dom caste, your mother doesn't give you proper clothes.'

One day, I came home and told my father that the other children insult me. He decided to speak to the teacher. He said to her: 'Do the Dom have no honor and dignity, are those children the only ones who have it?' The teacher asked him not to interfere in the fights among children. So my father threatened to send a written complaint to the education department. She got scared and pleaded with him to not send a letter or she would lose her job. He relented, but not much has changed since then. Even now the children say such things.⁹⁶

Priya, in grade VII when we spoke with her, said the discrimination continues, and she often feels discouraged from attending school:

Other children don't let us sit with them. Some of the girls say 'Yuck, you people are Dom [sweepers]—dirty caste, we are good caste.' I feel bad. I

⁹⁵ Ibid.

⁹⁶ Human Rights Watch interview with Priya (pseudonym), Dom community slum near Gaya railway station, Gaya, Bihar, July 20, 2013.

curse myself that why did God make me Dom caste so that they can mistreat me so? I don't know why they speak to us in such a way. The teachers never say anything even when we complain.⁹⁷

The discrimination and the unwillingness of teachers and other school administrators to combat such behavior contribute to increased truancy. Children in Priya's neighborhood admit they often miss school because of the unwelcome atmosphere. The children stay away, falling behind in classes, and eventually drop out altogether.

Pankaj and Meena in Sonbhadra, Uttar Pradesh

Eight-year-old Pankaj belongs to the Ghasiya tribe and lives in a small hamlet in Raup village in Sonbhadra district in Uttar Pradesh. Fifty-nine children from the hamlet attend the nearest government primary school in Lodhi village.

The school attendance registers reveal that all the Ghasiya tribe children, except for one girl, have been put in the same grade—grade II—irrespective of their ages. The remaining 107 non-tribal children are in age-appropriate classes. Pankaj says there is constant discrimination:

The teacher tells us to sit on the other side. If we sit with others, she scolds us and asks us to sit separately. The children from the other community don't play with us or talk to us. The teacher doesn't sit with us because she says we are dirty. The other children also call us dirty every day, so sometimes we get angry and hit them. We also sit separately when eating. When we ask for food, the cook says 'There's no more for you.' But when the children from the other community ask, the cook says 'Come and eat.' If our plates touch the serving bowl by mistake, the cook gets angry and abuses us. So we keep our plates at a distance when food is served.⁹⁸

Pankaj explained that they have to fetch water from quite a distance. So if they wait to bathe in the morning before they go to school, they are late for classes and have to bear the brunt of the teachers' anger.

⁹⁷ Ibid.

⁹⁸ Human Rights Watch interview with Pankaj (pseudonym), Sonbhadra district, Uttar Pradesh, April 18, 2013.

The Lodhi school's principal told Human Rights Watch that the children from the Scheduled Tribe were a "big problem" for them:

These Ghasiya children come to school late, come when they want to come, no matter how much we tell them to come on time. Their main aim is to come and eat, not to study. Just see how dirty they are. They don't bathe, they don't wear school uniform, and they smell. When we ask them why they are so dirty, they say there is no water. The problems of these children will never get solved. Their parents are uneducated. We can't mix these children with normal children because they are spoiling them too. These children are not able to mix with others.⁹⁹



Children from the Ghasiya tribe say they are called "dirty" and are discriminated against by the teachers and other students at a primary school in Sonbhadra district, Uttar Pradesh. All children from the tribe are enrolled in the same grade and sit in the same classroom irrespective of their ages © 2013 Jayshree Bajoria/Human Rights Watch

⁹⁹ Human Rights Watch interview with the principal of Lodhi government primary school no.2, Sonbhadra district, Uttar Pradesh, April 18, 2013. During the interview, a senior female teacher was also present.

Several other children told Human Rights Watch similar stories of discrimination in school, and how it made them feel unwelcome. Meena, 8, said:

If we go to drink water, or go to the toilet, and accidentally touch children from the other community, they yell at us saying ‘You dirty Ghasiya, why are you touching us?’ and then go and complain to the teacher. The teacher then scolds us saying ‘Why are you touching these children?’ We are made to sit separately in a class and the teachers don’t even teach us. The teacher doesn’t even sit in our class, she sits in the other class. The teacher just tells us to write or read whatever we want.

We don’t eat lunch with the other children. If we ever go to ask for any more food, the cook shouts at us asking us to go away saying ‘You eat so much.’ But when there is food left, the cook calls the children from the other community and offers it to them. If we ever complain to the teachers, they warn us that if we go and tell anyone they will cut our names from the school.

The boys from the other community always call us names, call us dirty. Even if we bathe and go, the other children call us dirty, and say we smell. When we tell our parents, they tell us they will go and complain to the teachers but they don’t.¹⁰⁰

When Human Rights Watch researchers returned to the settlement a year later, they found that the 58 children from Ghasiya tribe who were in grade II had been promoted to grade III and 22 new students had been enrolled in grade I. But all the children shared the same classroom, One of the teachers in school explained that the younger children from Ghasiya settlement prefer to sit with their own community. “If we make them sit forcibly, they sit for a while, but after a while they run away.”¹⁰¹

The unwelcome atmosphere in school is taking a toll on the Ghasiya students. Most of them rarely attend school anymore. Meena told Human Rights Watch that all the children

¹⁰⁰ Human Rights Watch interview with Meena (pseudonym), Sonbhadra district, Uttar Pradesh, April 18, 2013.

¹⁰¹ Human Rights Watch interview with a teacher of Lodhi government primary school no.2, Sonbhadra district, Uttar Pradesh, March 21, 2014.

from the settlement preferred to attend a private school nearby run by a charitable organization for free.

If the teachers don't teach then what's the point of going to school. I won't go to government school. There they don't treat us well. We will go to a school where they treat us with love.¹⁰²

Sharda in Patna, Bihar

Sharda, a Dalit girl from the Musahar community was pulled out of school in grade V and married because her parents were worried about her safety. She was 14 years old when she got married in April 2013 and now lives with her husband and his family in a village in Sampatchak block in Patna district. Before her wedding, when she went to school defying her parents, she found that her name was no longer in the attendance register.

While some villagers cautioned her father against marrying her off at such a young age, no local authorities or members of the gram panchayat intervened. “There was no one I could turn to who would help me,” she said. Early on after her marriage, her father-in-law agreed to send her to school to continue her education but soon decided against it because he did not want to risk community disapproval.

An effective school management committee or village-level education committee could have helped surmount such troubles. But no one from the local government or panchayat intervened on Sharda’s behalf.

Sharda says she is now restricted to the house:

I am not allowed to go anywhere. I want to play but I am not allowed to. I don’t like to do housework. But even when I am sick I have to do all of it. Otherwise my mother-in-law and my sister-in-law yell at me. My mother-in-law says she wants a grandchild within a year. But I don’t want that problem.¹⁰³

¹⁰² Human Rights Watch interview with Meena (pseudonym), Sonbhadra district, Uttar Pradesh, March 21, 2014.

¹⁰³ Human Rights Watch interview with Sharda (pseudonym), Sampatchak block, Patna district, Bihar, July 12, 2013.

Malini in Gaya, Bihar

Malini, 14, has never been to school, which is the case of many other girls belonging to the Dalit Dom community in her slum in Gaya city. “None of the girls go to school from here,” Malini said. She started doing all the housework when she was quite young and looks after her younger siblings when both her parents are out working. Her brother is the first person from the family to go to school. “I sometimes open his books and wish I could study too,” she said.¹⁰⁴

Her mother says most girls stay at home. They do not even step out of the neighborhood except to go to the grocery shop just outside. She adds that most families get their daughters married by the time they are around 14-15 years of age because, with both parents out to work, it’s not safe for the girls to be home alone. Malini said she has told her mother repeatedly she wants to study but her mother says it is pointless because she will be married in four months: “I am already engaged. This neighborhood is so unsafe, we can’t stay here once we are 14 or 15, so I have to get married.”¹⁰⁵

While the girls stay home, the boys from this neighborhood are enrolled in the local government school. The authorities have never intervened to encourage the parents to send their girls to school. Even though there are several government policies and efforts geared toward higher enrollment of girls, Malini’s story illustrates how the lack of effective implementation by local authorities prevents any real change.

Muslims

Human Rights Watch’s research uncovered several incidents in which Hindu teachers in government schools made derogatory remarks about Muslim students. Such insults make children feel unwelcome in school. And teachers responsible for such discrimination do not seem to be held to account. Without an effective grievance redress system, children and parents from minority or marginalized communities have no recourse. Instead of becoming inclusive and equitable places as envisioned under the Right to Education Act, schools end up alienating these children.

¹⁰⁴ Human Rights Watch interview with Malini (pseudonym), Gaya, Bihar, July 18, 2013.

¹⁰⁵ Ibid.

A 2006 report on the social, economic, and educational status of the Muslim population in India by a high-level committee set up by the prime minister (commonly referred to as the Sachar Committee report) concluded that “with regard to school education, the condition of Muslims is one of grave concern.”¹⁰⁶ The report said that 25 percent of Muslim children aged 6 to 14 had either never attended school or had dropped out. This was higher than any other socio-religious category although it noted that enrollment rates for Muslim children had risen significantly in recent years. It also pointed out that in many states, there was “a dearth of facilities for teaching Urdu,” the first language of many Muslims.¹⁰⁷

Under India’s eleventh five-year plan (2007-2012), the government undertook a program to modernize madrasas by strengthening their capacity to teach formal subjects such as mathematics, science, and language. The government also provides financial assistance for infrastructure development to private minority institutions, and for the appointment of Urdu teachers in government schools in localities where more than 25 percent of the population is Urdu-speaking.¹⁰⁸

However, a 2012 report by Abusaleh Shariff, the lead author of the 2006 Sachar Committee report, examined education-related data from 2004-05 and 2009-10 and concluded that improvements in grades I to X were lowest among Muslims.¹⁰⁹ Shariff found that funds allocated to Sarva Shiksha Abhiyan to address the needs of educationally backward communities, including children from minority groups, “have not been fully and appropriately spent.” He added that the benefits from programs for minorities do not reach their target communities because of “organizational biases of the state level bureaucracy in education departments and in programs for minorities.”¹¹⁰ “There is a systemic bias against Muslims in India... which is carried forward in education too,” Shariff told Human Rights Watch.¹¹¹

¹⁰⁶ Report by the Prime Minister’s High Level Committee constituted under Justice Rajindar Sachar (Sachar Committee report), “Social, Economic and Educational Status of the Muslim Community in India,” November 2006, http://minorityaffairs.gov.in/sites/upload_files/moma/files/pdfs/sachar_comm.pdf (accessed August 1, 2013).

¹⁰⁷ Ibid.

¹⁰⁸ Ministry of Minority Affairs, Government of India, “Sachar Committee Report and Status of Follow up Action” January 2013, http://minorityaffairs.gov.in/sites/upload_files/moma/files/Status%20of%20Follow%20up%20Action%20as%20on%2031.01.2013.pdf (accessed October 29, 2013).

¹⁰⁹ Abusaleh Shariff, “Inclusive Development Paradigm in India: A Post-Sachar Perspective,” US-India Policy Institute, March 2012, <http://www.usindiapolicy.org/documents/publications/USIPI-Publication-01-Shachar-Web.pdf> (accessed August 1, 2013).

¹¹⁰ Abusaleh Shariff, “Six Years After Sachar: Review of Socially Inclusive Policies in India Since 2006,” US-India Policy Institute and Center for Research and Debates in Development Policy, January 2013, <http://www.usindiapolicy.org/wp-content/uploads/2013/05/USIPI-Pub-05-SixYearsAfterSachar-Web.pdf> (accessed August 9, 2013).

¹¹¹ Human Rights Watch phone interview with Abusaleh Shariff, August 7, 2013.

The Sachar Committee report noted how “identity, security and equity related issues overlap and feed into each other in myriad ways.” Negative stereotypes of Muslims and the suspicion they face from the majority community affect their motivation and well-being. Recent empirical evidence also belies the popular notion that Muslim children largely attend madrasas rather than regular schools. According to the Sachar Committee report, only 4 percent of Muslim children aged 7 to 16 attend madrasas.¹¹²

Studies show that Muslim children face differing access to education throughout the country, and some predominantly Muslim areas lack schools.¹¹³ A 2006 study found that some 5,400 villages with over 40 percent Muslim population did not have a government school.¹¹⁴

A November 2011 report found that schools and hostels built using funds from the Multi-Sectoral Development Plan, meant to address the backwardness parameters identified in the Sachar Committee report, were mostly built in areas with few minority residents and little enrollment of Muslim children. For instance, only 7 of 66 new primary schools built in 2009-2010 in Darbhanga, Bihar, were actually in minority concentration areas.¹¹⁵

When Human Rights Watch visited the predominantly Muslim area of Bajardihan in Varanasi in Uttar Pradesh, parents, civil society activists, and even a school principal told us that there were far too few primary and upper primary schools given the number of children aged 6 to 14 years.¹¹⁶

In some states where the Hindu nationalist Bharatiya Janata Party (BJP) is in power, it has introduced Hindu religious texts or prayers as part of the curriculum. In August 2013 the BJP-run government in Madhya Pradesh state ordered state-funded schools and madrasas to introduce stories from the Hindu religious Bhagavad Gita in Hindi, English, and Urdu

¹¹² Government of India, “Sachar Committee Report,” November 2006, http://minorityaffairs.gov.in/sites/upload_files/moma/files/pdfs/sachar_comm.pdf (accessed July 9, 2013).

¹¹³ Mohammad Sanjeer Alam, “Education and Exclusion of Muslims,” Council for Social Development, 2013.

¹¹⁴ Sachar Committee Report, November 2006, p. 294.

¹¹⁵ Centre for Equity Studies, “Promises to Keep: Investigating Government’s response to Sachar Committee recommendations,” November 2011, <http://www.sacw.net/article2434.html> (accessed December 15, 2013).

¹¹⁶ Human Rights Watch interviews with civil society activists, Muslim parents, and a government school principal in Bajardihan, Varanasi, Uttar Pradesh, April 10, 2013.

textbooks, prompting much outrage from minority groups.¹¹⁷ The Sachar Committee report also expressed concern over the “communal” content of school textbooks, and warned that if texts were derogatory toward certain communities or failed to reflect the country’s diversity, they can “alienate children of those communities from the wider society.”¹¹⁸

Sahir and Javed in Goyala Dairy Slum, Delhi

Sahir, 12, wishes he could go to another school because of the discrimination he suffers as a Muslim in a government school in Qutab Vihar in southwest Delhi district, where he studies in grade V. He told Human Rights Watch:

We don’t feel like going to school because the teachers always single us out to beat us. The Hindu boys laugh at us. The teachers don’t let us participate in any sports. Class monitors are always chosen from among Hindu boys and they always complain about us Muslim boys. The teachers never believe us. They insult us by saying ‘You children come to school only to eat and to collect [scholarship] money, but you don’t want to study.’ Whenever they check our workbooks, they make negative comments on our work and throw the workbooks at our faces.¹¹⁹

Another boy, Javed, from the same school said:

The teachers always threaten to cut our names from the school register. They never say such things to the Hindu boys. The Hindu boys are allowed to go to the toilet but we are not given permission. Whenever the teachers are angry, they call us Mullahs. The Hindu boys also call us Mullahs because our fathers have beards. We feel insulted when they refer to us like this. After the Hindu boys fight with us, they not only get us beaten up by the teachers but also go and complain to their parents who come and hit us.¹²⁰

¹¹⁷ Manjari Mishra, “MP govt’s order to introduce Gita in madrassas triggers storm in Muslim community,” *Times of India*, August 5, 2013, http://articles.timesofindia.indiatimes.com/2013-08-05/india/41092226_1_bhagwad-gita-bjp-government-muslim-leader (accessed August 6, 2013).

¹¹⁸ Sachar Committee Report, November 2006.

¹¹⁹ Human Rights Watch spoke with Sahir (pseudonym) and four other boys as part of a group discussion, Goyala Dairy Slum, Delhi, October 1, 2013.

¹²⁰ Human Rights Watch interview with Javed (pseudonym) and four other boys as part of a group discussion, Goyala Dairy Slum, Delhi, October 1, 2013.

Several other Muslim boys spoke to Human Rights Watch of the discrimination they face in school. One of them said he was terrified when the teacher caught his brother making paper planes in class and yelled at him, calling him Mullah and threatening to cut him to pieces. Another student said: “We never share water with the Hindu children nor do they share with us. We don’t play with each other, there’s hardly any interaction between us.”¹²¹

Sahir said the teachers were not respectful of their parents:

One of our classmate’s [name withheld] father came to submit a form. The teacher referred to him as ‘the man with the beard’ and made fun of him in front of the whole class and laughed hard. All the Hindu children laughed too and we felt terrible. When our parents come to collect money [for school uniform or scholarship], the teachers speak ill of us in front of them. Only the Hindu boys are happy in this school.¹²²

Sara in Delhi

Sara, 14, regrets that she chose to study Urdu instead of Sanskrit as her second language. When we met her, she was in grade VIII in a government upper primary school in Nandnagri in northeast Delhi district where all girls who chose Urdu sat in the same classroom. She said the teachers discriminated against her class because all the girls were Muslims:

There are some teachers who come and abuse us. They say things like: ‘You Muslim people have no brains, you read the Quran, pray to Allah, but don’t respect knowledge.’ If we complain, the teachers don’t listen to us.

A few months ago, we had a substitute teacher who said the floods in Uttarakhand happened because Muslims have opened meat shops there. She said that it’s a place of worship for Hindus but Muslims go there and treat God badly. It’s because of Muslims, she said, the disaster happened, to pay them for their sins. We felt really bad when she said all this about

¹²¹ Human Rights Watch interview with a group of five boys, Goyala Dairy Slum, Delhi, October 1, 2013.

¹²² Human Rights Watch spoke with Sahir (pseudonym) and four other boys as part of a group discussion, Goyala Dairy Slum, Delhi, October 1, 2013.

Muslims. The whole time she kept saying Muslims do this, Muslims do that. No one in the class objected because we were afraid of being hit by her.¹²³

Salman in Delhi

Salman, 13, is one of three Muslim boys in his grade VII class in the upper primary school at Nandnagri. He told Human Rights Watch that the Muslim students are seldom selected to participate in the school's extracurricular programs:

Most children participating in cultural programs are Hindu. I want to participate in cultural programs too. I learned a patriotic song but the class monitor in charge of deciding who gets to participate refused to take me in the event and even hit me.

Sometimes I don't like being Muslim. I feel insecure when there are Hindu-Muslim fights because most Hindus get together and surround the Muslims. My mother asks me not to stray too far from home when there are communal tensions.¹²⁴

Salman's friend Shahid who studies in grade VI said the teachers discriminate between Hindu and Muslim festivals:

We also feel like celebrating Muslim festivals. The day before Diwali [the Hindu festival of lights], Hindu children burst firecrackers. But on Shabrat [Muslim festival], when we want to celebrate and burst firecrackers, the teachers scold us and take away the firecrackers, or throw them away.¹²⁵

¹²³ Human Rights Watch interview with Sara (pseudonym), G-block Sunder nagri, Delhi, September 10, 2013. Several other girls aged 6-14 participated in this group discussion.

¹²⁴ Human Rights Watch interview with Salman (pseudonym), G-block Sunder nagri, Delhi, September 10, 2013. Five other boys participated in this group discussion.

¹²⁵ Ibid.

III. Implementation, Monitoring, and Accountability

Promising policy initiatives for social development often falter in India due to poor implementation. This has been true of government programs addressing maternal mortality,¹²⁶ protection of women and girls, and the rights of Dalits, tribal groups, religious minorities, and other marginalized groups.¹²⁷ Programs to improve access to education for children from marginalized communities are no exception.

As illustrated in the previous chapter, efforts to end classroom discrimination by teachers, one important aspect of ensuring the right to education, have fallen short. But a range of factors may deter vulnerable children from attending school such as poverty, work inside and outside the homes, migration, or inability to cope with curriculum. The government recognizes the challenges faced by children at risk of dropping out or out-of-school children¹²⁸ and has formulated laws and policies to address their needs. However, absence of rigorous and effective monitoring, accountability, and grievance redress mechanisms can lead to India's failure to realize the goals set out under the Right to Education Act especially with respect to children from marginalized communities.

The education act lays down guidelines to prevent some of these dangers. However, as explained in this chapter, there are acute problems in implementation. Under India's federal structure, while laws such as the Right to Education Act are initiated by the central government and enacted by Parliament, their implementation lies with the state governments and the latter have varying degrees of administrative ability. For instance, Human Rights Watch found greater efforts being made to implement the act at state and district levels in Andhra Pradesh than in Bihar. Even within Andhra Pradesh, districts differed in their ability to take on monitoring and implementation. To make its ambitious program to provide universal access to education succeed, the Indian government will

¹²⁶ Human Rights Watch, *India—No Tally of the Anguish*, October 7, 2009, <http://www.hrw.org/reports/2009/10/08/no-tally-anguish-o>.

¹²⁷ See, for example, Human Rights Watch, *Hidden Apartheid: Caste Discrimination Against India's "Untouchables,"* February 12, 2007, <http://www.hrw.org/reports/2007/02/12/hidden-apartheid-o>; Human Rights Watch, *Broken People: Caste Violence Against India's "Untouchables,"* March 3, 1999, <http://www.hrw.org/reports/1999/03/01/broken-people-o>. See also National Human Rights Commission, "Report on Prevention of Atrocities against Scheduled Castes," 2004, http://idsn.org/fileadmin/user_folder/pdf/New_files/India/NHRC_India_-_Atrocities_Report_2004.pdf (accessed December 15, 2013).

¹²⁸ An out-of-school child means one who was never enrolled in school or one who dropped out of school.

need to develop and enforce protocols to monitor not merely children’s enrollment, but whether they remain in school until they have completed their elementary education.

The monitoring mechanisms provided under the new law are failing at all levels: school management committees, school authorities, local village councils, or district and state education department officials. Each of them is vested with authority and responsibility under the education act, but a failure to uphold their responsibilities, and a lack of accountability, is resulting in the failure to retain every child in the classroom. The government will need to devise proper protocols or guidelines that can help identify children who are at risk of dropping out or have dropped out and put in place mechanisms for the authorities to intervene in time to facilitate their return to school. While most states have defined on paper when a child should be considered a dropout, it is unclear whether there is any understanding among relevant authorities as to how this should translate into remedial measures to bring a child back to school.

“When you speak with officials about the right to education, they love to talk about plans and circulars. But ask them about implementation— and they hem and haw. They have nothing,” complained Sanat Sinha, chief coordinator at Patna-based NGO, Bal Sakha.¹²⁹

The lack of effective monitoring is reflected in the wide divergence between government data and data from other sources. For instance, according to the Ministry of Human Resources, in 2012, there were about 3 million out-of-school children whereas a survey by Educational Consultants India Limited puts this number at 8.1 million.¹³⁰

Lack of coordination among departments of labor, education, social welfare, and the various commissions dealing with Muslims, Scheduled Castes, and Scheduled Tribes hinders effective implementation of the Right to Education Act. The National Commission for Protection of Child Rights (NCPCR), in charge of monitoring the implementation of the act, is not functioning effectively, in part because there is poor coordination between the Ministry of Women and Child Development under which it is set up and the Ministry of Human Resource Development that funds it.

¹²⁹ Human Rights Watch interview with Sanat Sinha, Patna, July 12, 2013.

¹³⁰ National Advisory Council Working Group on Right to Education, “Summary of Recommendations,” November 2012, http://nac.nic.in/pdf/rte_proposal.pdf (accessed September 5, 2013).

According to Dhir Jhingran, former national coordinator of the Right to Education cell at NCPCR, the commission fails to act as an autonomous body to effectively monitor the act. Jhingran explained: “We create institutions and do not invest in them and weaken them on purpose.”¹³¹ He linked the problems to the commission’s dependency on the government agencies they are monitoring: “For example, if we are monitoring MHRD [Ministry of Human Resource Development], I should not get funds from MHRD; I should get it from elsewhere — like the planning commission or somewhere. Right now, MHRD approves the work plan and we are supposed to monitor that, which is a complex situation.”¹³² Other commission officials also said that a lack of coordination between concerned ministries and departments affects their effectiveness.¹³³

Weak implementation of education policies combined with poor enforcement of the Child Labor (Prohibition & Regulation) Act, 1986 by the labor department contributes to the high incidence of child labor.¹³⁴ While child labor remains a ubiquitous problem in India,¹³⁵ Human Rights Watch also found that children who drop out of school end up in the work force because parents feel that is more useful than doing nothing. According to UNICEF, India has 13 million child workers aged 5 to 14 years, the largest number in the world, and a large majority of them are Dalits or from Scheduled Tribes and other minorities.¹³⁶

¹³¹ Dhir Jhingran, “Some elements in NCPCR are opposed to the RTE Act,” *Governance Now.com*, April 13, 2013, <http://www.governancenow.com/views/interview/some-elements-ncpcr-are-opposed-rte-act> (accessed July 1, 2013).

¹³² Ibid.

¹³³ Human Rights Watch interview with Dr. Vandana Prasad, then in charge of the Right to Education cell at the National Commission for Protection of Child Rights, New Delhi, August 30, 2013.

¹³⁴ The inter-agency report for the Hague Global Child Labor Conference in 2010 noted that child labor is both a cause and a consequence of the slow progress towards universal basic education. Children engaged in labor are more likely to drop out, complete fewer years in school, and achieve lower test scores. At the same time, weak implementation of education policies can push more children into labor markets. “Joining Forces Against Child Labor, Inter-Agency Report for the Hague Global Child Labor Conference,” May 2010, http://www.un.org/ar/events/childlabourday/pdf/Hague_Report.pdf (accessed July 1, 2013). See also Planning Commission, Government of India, 12th five-year plan (2012-2017). In India, low rates of attendance—in states such as Uttar Pradesh, Bihar, Madhya Pradesh, and Jharkhand, it is below 60 percent—are often because children help out at home or in the fields; girls are frequently asked to take care of younger siblings or share in housework. Sixty-six percent of child workers are engaged in agriculture and children tend to drop out of school to perform such work long before they are 14, starting around the ages of 8 or 10. See, e.g., Planning Commission, Government of India, 12th Five-Year plan (2012-2017), Social Sectors, Volume III, 2013, http://planningcommission.gov.in/plans/planrel/12thplan/pdf/vol_3.pdf (accessed July 1, 2013). Child labor largely has an inverse relationship with children’s ability to go to school. “Child labor restricts the right of children to access and benefit from education and denies the fundamental opportunity to attend school,” notes the working group for social inclusion of vulnerable groups like child labor, bonded and migrant labor in the 12th five-year plan. See Planning Commission, Government of India, “Working group for social inclusion of vulnerable groups like child labor and bonded and migrant labor in the 12th five year plan (2012-2017).” Government figures from the National Sample Survey Organisation estimated India’s child workforce in 2009-10 to be 4.9 million.

¹³⁵ India has 13 million child workers aged 5 to 14 years, the world’s largest population of such workers. UNICEF, “Special: Fighting Child Labour,” August 22, 2013, http://www.unicef.org/india/reallives_8279.htm (accessed August 7, 2013).

¹³⁶ Ibid.



Children line up for morning assembly at an upper primary school in a village in Andhra Pradesh state. The state government has made efforts to bring out-of-school children, particularly girls, back to the classroom. © 2013 Jayshree Bajoria/Human Rights Watch

The authorities are failing to ensure that children do not work at the expense of education. Nor is there enough effort to provide special classes or bridge courses as envisioned under the Right to Education Act to address the learning gaps of drop-outs, migrant children, or children who attend school irregularly. The labor department's scheme to deal with child labor, the National Child Labor Project (NCLP), provides bridge schools to educate children who have been released from work and then mainstream them into the existing education system.¹³⁷ However, bridge courses are also part of the Right to Education Act, leading to possible confusion and inefficiency.

¹³⁷ As part of NCLP, the Ministry of Labor and Employment hires independent agencies to conduct surveys and the labor department conducts inspections to identify children working in hazardous occupations and processes. Children between 9 and 14 are supposed to be withdrawn from their workplaces and enrolled in special schools. Subsequently, they are to be mainstreamed in formal education or self-employment within a period of six months to three years of their enrollment in the special schools. To ensure children do not return to the workforce, the authorities are supposed to follow up with the children for the next few years. See Ministry of Labor and Employment, Government of India, The Policy of the Government on

Children’s rights groups such as Haq: Centre for Child Rights argues that the National Child Labor Project should be scrapped to avoid duplication of efforts.¹³⁸ A senior labor official in eastern Uttar Pradesh agreed that the education department should handle the running of bridge schools. He added that the labor department lacks both financial and human resources to deal with the scale of the child labor problem: “When we find large numbers of children in labor and rescue them, we don’t have the capacity to tackle them. If we rescue five children, it takes us four days to complete all the procedures and follow up on rehabilitation.” He added: “Either NCLP schools should be made residential schools or they should become part of the Right to Education Act and be run by the education department. We are hardly the best department to handle schools.”¹³⁹

Monitoring Mechanisms

“Comprehensive and integrated ‘Monitoring, Accountability and Grievance Redress’ mechanisms, accessible to all citizens, are crucial to the fulfillment of this constitutional right,” states the National Advisory Council’s Working Group on Right to Education Act.¹⁴⁰ It recognizes that a robust monitoring and grievance redress system is essential to empowering the education system to ensure that all children between 6-14 years are provided an education.

According to Indian law and accompanying rules, monitoring mechanisms are set up at various levels.

At the community level, teachers are supposed to hold regular meetings with parents and apprise them of regularity in attendance, learning abilities, progress, and other issues concerning the child.¹⁴¹

the issue of Child Labor,
<http://labour.nic.in/upload/uploadfiles/files/Divisions/childlabour/PolicyofGovernmenontheissueofChildLabour.pdf>
(accessed December 1, 2013);

¹³⁸ Haq: Centre for Child Rights, “Budget 2013-14 and Children: A First Glance,” http://www.haqcrc.org/sites/default/files/Budget%20for%20Children%20Analysis%202013-14_o.pdf (accessed December 13, 2013).

¹³⁹ Human Rights Watch interview with senior official in the labor department (name withheld), Uttar Pradesh, April 20, 2013.

¹⁴⁰ Working Group on RTE, National Advisory Council, Government of India, “Monitoring, Accountability and Grievance Redress Mechanisms for The Right to Education,” January 2013, http://nac.nic.in/press_releases/rte_gr_reco.pdf (accessed July 9, 2013).

¹⁴¹ The Right of Children to Free and Compulsory Education Act, 2009, No. 35 of 2009, section 24(e), http://www.ncpcr.gov.in/Acts/gazette_right_to_education_bill_2009.pdf (accessed September 12, 2013).

Authorities from the village council or the municipal corporation or any other local authority that has administrative control over the school is tasked with maintaining records of all children up to the age of 14 years residing in its jurisdiction through household surveys; ensuring admission of all children, including migrant children; ensuring that no child is discriminated against; and monitoring the functioning of schools in its jurisdiction.¹⁴²

At the district level, officials may occasionally undertake independent field visits to monitor school performance. However, the main information tool at the district level is the school-based annual information system called District Information System for Education (DISE). DISE data covers all schools, recognized or unrecognized. The state government is also tasked with ensuring admission, attendance, and completion of elementary education for every child and with preventing discrimination against any child on any grounds.¹⁴³ Unfortunately these mechanisms have not been effectively implemented.

Enrollment Does Not Guarantee Attendance

The government has had considerable success in ensuring that all children are enrolled in primary school. According to the National University of Educational Planning and Administration, the percentage of eligible children enrolled (the net enrollment ratio) at the primary level (grades I to V) for the year 2010-11 was 99.89 percent.¹⁴⁴ Data collected from NGOs also point to high enrollment rates; one survey found that only 3.3 percent of children aged 6 to 14 in rural areas were not in school, a figure which included children who were never enrolled and those who had dropped out.¹⁴⁵

The government's success in ensuring that children remain in class and complete elementary education is another matter. Enrollment does not necessarily translate into attendance, and India lacks an adequate mechanism for monitoring each child's progress so that the underlying causes of poor attendance can be determined and addressed. As

¹⁴² The Right of Children to Free and Compulsory Education Act, 2009, No. 35 of 2009, section 9, http://www.ncpcr.gov.in/Acts/gazette_right_to_education_bill_2009.pdf (accessed September 12, 2013).

¹⁴³ The Right of Children to Free and Compulsory Education Act, 2009, No. 35 of 2009, section 8, http://www.ncpcr.gov.in/Acts/gazette_right_to_education_bill_2009.pdf (accessed September 12, 2013).

¹⁴⁴ National University of Educational Planning and Administration, "Elementary Education in India: Progress Toward UEE," District Information System for Education, 2013, <http://www.dise.in/Downloads/Publications/Publications%202011-12/Flash%202011-12.pdf> (accessed July 1, 2013).

¹⁴⁵ ASER Centre, "Enrollment and Learning Report Card From the Annual Status of Education Report 2013," 2013, http://img.asercentre.org/docs/Publications/ASER%20Reports/ASER_2013/4-pagers/enrollmentandlearning_english.pdf (accessed January 20, 2014).

described in detail below, India even lacks a standard procedure for identifying out-of-school children, those who have dropped out or are at risk of dropping out who require intervention by school or relevant authorities.

Poor school attendance often stems from a combination of factors. While most studies point to poverty as a significant barrier to school attendance, it is important to note that economic disadvantage typically becomes a major obstruction when coupled with some form of discrimination.

Studies show that retention is a concern at every stage—primary, upper primary, and during transition from primary to upper primary. While nearly all Indian children are enrolled in primary school (the net enrollment ratio is nearly 100 percent), enrollment drops to 62 percent at upper primary level (grades VI to VIII), according to data from the Department of School Education and Literacy. And the drop-off occurs well before upper primary level: only 73 percent of children make it to the end of primary school (grade V).¹⁴⁶ According to government estimates, schools lose 42 percent of their children by grade VIII.¹⁴⁷ This means over 80 million children drop out before completing elementary education.¹⁴⁸ A significant number of students drop out between primary school and upper primary school. One estimate puts the figure at 13 percent, but the actual figure could be much higher.¹⁴⁹

Failure to Identify Dropouts and Children at Risk

Effective monitoring of school attendance is seriously hindered by lack of clarity among school authorities as to which children should be considered out of school or dropouts so that appropriate interventions can be devised.¹⁵⁰ Most states have defined a “dropout” in their rules, but the definition varies from state to state. In Andhra Pradesh, for instance,

¹⁴⁶ Department of School Education and Literacy, Ministry of Human Resource Development, Government of India, and National University of Educational Planning and Administration, “Elementary Education in India,” 2012, <http://www.dise.in/Downloads/Publications/Publications%202010-11/Flash%20Statistics-2010-11.pdf> (accessed August 5, 2013).

¹⁴⁷ Planning Commission, Government of India, “12th Five-Year plan (2012-2017), Social Sectors, Volume III,” 2013, http://planningcommission.gov.in/plans/planrel/12thplan/pdf/vol_3.pdf (accessed July 1, 2013).

¹⁴⁸ UNICEF, “Time to Take Stock, Time to Discuss RTE,” undated, http://www.unicef.org/india/reallives_8138.htm (accessed August 5, 2013).

¹⁴⁹ “Out of school children and dropout a national emergency: UNICEF,” *The Hindu*, April 13, 2013, <http://www.thehindu.com/news/national/out-of-school-children-and-dropout-a-national-emergency-unicef/article4611287.ece> (accessed June 25, 2013).

¹⁵⁰ Human Rights Watch interviews with school principals and teachers in Andhra Pradesh, Bihar, and Uttar Pradesh. Most expressed a lack of clarity on the definition of a dropout.

the government rules state that an elementary school student absent for more than one month is to be considered out of school.¹⁵¹ In Karnataka, to sooner identify a child at risk, the definition of “dropout” has changed from a child absent from school for 60 days to seven days without taking leave of absence. In Bihar, several school principals told Human Rights Watch that the government requires them to remove names of children who are absent continuously for three months from school registers.

However, there are no clear guidelines on how the authorities should take remedial action to bring the children who have dropped out back in school. If a student’s name is removed from registers because of prolonged absence, there is no clarity about a re-admission.

For prompt intervention, the first step is to maintain accurate attendance records. However, as discussed below some school authorities falsify records to show higher retention of children.¹⁵²

Also, there is little consensus even within government departments on compiling out-of-school data, as Human Rights Watch found in our interviews in Uttar Pradesh. According to Paramhans Singh Yadav the basic education officer in Varanasi district, in 2012, 400 children were out of school or had dropped out in the district.¹⁵³ A survey commissioned by the labor department, however, found that 2,400 children were working and not going to school.¹⁵⁴ When this list was submitted to the education department, the latter struck 500 names from the list claiming those children were still enrolled. Even assuming the 500 were properly struck from the list (and there is reason to doubt that because inclusion in an enrollment register alone does not mean children are attending school), it still leaves a large disparity between the 1900 out-of-school children identified by the labor department and the 400 claimed by the education department.

Under the Right to Education Act the school management committee (SMC)—composed of parents, the head teacher, and a member of the local government—is expected to play a critical role in identifying drop-outs and persuading parents to return their children to

¹⁵¹ The Andhra Pradesh Right of Children to Free and Compulsory Education Rulesm, 2010, <https://dl.dropbox.com/u/67891215/AP%20RTE%20Rules.pdf> (accessed December 15, 2013).

¹⁵² See section on “Corruption and Other Malfeasance by School Authorities” in this chapter.

¹⁵³ Human Rights Watch interview with Paramhans Singh Yadav, Basic Education Officer, Department of education, Varanasi, Uttar Pradesh, April 20, 2013.

¹⁵⁴ Human Rights Watch interview with a senior labor official (name withheld), Uttar Pradesh, April 20, 2013.

school.¹⁵⁵ But many schools have yet to even establish these committees. Data collected for 2011-2012 found that only 68 percent of schools nationwide had constituted such committees; in Uttar Pradesh, only 56 percent had done so.¹⁵⁶

Annie Namala, who previously chaired the task force on equity and inclusion in the National Advisory Council on Right to Education said that state governments have failed to support or empower the committees to carry out their responsibilities. “The government has neither thought about how SMCs can be empowered nor has it provided the time, energy, or human resources to train the people. The decision-making role of the SMC is not emphasized upon at all,” she said.¹⁵⁷ Most states also lack an effective grievance redress mechanism that can be used by committee members.

Once a child who has dropped out is identified, the SMC, local authorities, and education department are responsible for bringing the child back to school.¹⁵⁸ In most of the schools we visited, this policy was not being implemented.

However, in Mahbubnagar district, which has the highest number of out-of-school children in Andhra Pradesh, things were changing. District collector M Girija Shankar has been working to keep a closer check on the students’ attendance. He said:

As soon as a child is absent for more than five days, there should be cognizance of this fact from the level of teacher to the cluster resource person,¹⁵⁹ all the way to divisional level. We are sensitizing teachers and headmasters to take this more seriously. We have a long way to go. We are also insisting on this during SMC training. Early detection of dropout

¹⁵⁵ Right of Children to Free and Compulsory Education Rules, 2010, Section 6(d), http://mhrd.gov.in/sites/upload_files/mhrd/files/RTI1.pdf.

¹⁵⁶ District Information System for Education, Status of Elementary Education in Uttar Pradesh, <http://www.dise.in/Downloads/Use%20of%20Dise%20Data/Status%20of%20Elementary%20Education%20in%20Uttar%20Pradesh.pdf> (accessed September 5, 2013).

¹⁵⁷ Human Rights Watch interviews with Annie Namala, New Delhi, August 16, 2013, and February 13, 2014. Namala is executive director of New Delhi-based NGO, Center for Social Equity and Inclusion and previously chaired the task force on equity and inclusion in the National Advisory Council on Right to Education, Ministry of Human Resource Development.

¹⁵⁸ Ministry of Human Resource Development, Government of India, 2011 SSA Framework for Implementation based on Right to Education Act 2009, Chapters 2 and 7, http://www.upefa.com/upefaweb/admin/myuploads/SSA_Frame_work_%28revised%29_9-6-2011.pdf (accessed July 9, 2013).

¹⁵⁹ The cluster resource person is the education department official tasked with visiting schools and providing on-site academic support to teachers.

children and immediate efforts to get them back is important. This is a big challenge.¹⁶⁰

More such efforts are needed. Human Rights Watch met several children who had not attended school for months—sometimes as many as six months—and their names remained in the registers. A member of the Child Welfare Committee in Andhra Pradesh told Human Rights Watch:

We see child labor every day, but the mandal education officer¹⁶¹ gives the district collector a report that all children are in school. The main challenge occurs when children are [listed on attendance registers] but the schools are unable to retain them. There's no follow-up on dropouts. Once a child's name is in the school register, it's never struck off.¹⁶²

Rani and Barkha in Mahbubnagar, Andhra Pradesh

Human Rights Watch researchers met two 10-year-old children, Rani and Barkha, in Mahbubnagar district in Andhra Pradesh. Both had stopped going to school after completing grade III in 2012 but both were still listed in the school register.

Rani, the youngest of six children, stopped going in mid-2012 to take care of her family's goats. Her mother cooks the mid-day meal in the government primary school that Rani no longer attends but where she is still registered. Her classmates said her name is called out every day when the teacher is marking attendance for the day. Rani told Human Rights Watch:

My mother told me not to go to school. She said 'There is no one to take care of the goats so you take care of them.' After my parents bought a goat, I dropped out to look after it. Now we have nine goats. I never liked going to

¹⁶⁰ Human Rights Watch interview with District Collector and Magistrate M. Girija Shankar, Mahbubnagar district, Andhra Pradesh, January 24, 2013.

¹⁶¹ The mandal education officer is the education department official responsible for supervision of schools at village and mandal/block levels.

¹⁶² Human Rights Watch interview with a member of the Child Welfare Committee, Andhra Pradesh, January 24, 2013.

school. I can't read or write. I told my parents I don't want to go to school and they said okay. I couldn't learn despite studying hard. ¹⁶³

A look at the class attendance register confirmed Rani's rare attendance since July 2012. There were a few presences amid a long list of absences. The class teacher said:

We spoke to her mother but she gives us two reasons for Rani's absence: 'Rani has to take care of the goats,' and that 'It's the harvesting season for groundnuts.' Rani comes to school for a few days when we put pressure on her mother but then she stops again. Rani is very interested in studying but her parents must have taught her to say she is not interested. Sometimes when Rani comes to school, she cries. We have tried to talk to her many times. If we ask her too many questions, she goes silent. I think she wants to study but parents pressure her so she is not able to say anything to us.¹⁶⁴

Rani's mother is employed by the school as a cook, a fact which neither school authorities nor SMC members used as leverage to insist that she send her daughter to school.

Barkha, the youngest of four children in a Dalit family, also stopped going to school after completing grade III in 2012. Human Rights Watch found her minding cattle while her mother was harvesting groundnuts. Barkha said:

My mother stopped my studies and asked me to look after cattle. We have goats, sheep, and two cows. I feel like going back to school. My parents are not ready to send me to school but otherwise I would go. Earlier, they had asked me to stop going to school when my elder sister had a daughter and I had to look after her daughter. [But] I like going to school a lot.¹⁶⁵

¹⁶³ Human Rights Watch interview with Rani (pseudonym), Mahbubnagar district, Andhra Pradesh, Jan 23, 2012.

¹⁶⁴ Human Rights Watch interview with Rani's class teacher, Mahbubnagar district, Andhra Pradesh, January 23, 2012.

¹⁶⁵ Human Rights Watch interview with Barkha (pseudonym), Mahbubnagar district, Andhra Pradesh, January 23, 2013.

Just like Rani, Barkha remains registered with long strings of absences marked in the attendance records. Barkha’s father, a farmer, said the school principal had come once and asked to send her to school but he needs her to take care of the cattle: “I will send her to school once the paddy [rice] has been planted. One person is needed to take care of the cattle, so we can’t send her to school.”¹⁶⁶

Early and more regular follow-up by the authorities could have led to interim solutions such as bridge courses to help bring these children back to school.



An eight-year-old boy who dropped out of school a year ago, looks after cattle in Mahbubnagar district of Andhra Pradesh state. Mahbubnagar has the highest number of out-of-school children in the state.

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¹⁶⁶ Human Rights Watch interview with Barkha’s father, Mahbubnagar district, Andhra Pradesh, January 23, 2013.

Veena in Mahbubnagar, Andhra Pradesh

When we met 11-year-old Veena, she was working in a groundnut field. Veena's mother passed away when she was an infant. Her older sister took care of her at the expense of her own schooling.

In 2012, after her sister got married and moved into her husband's home, Veena's father insisted that she drop out and find work. She was in grade III. Veena said that for a year she had been a full-time agricultural worker:

I wanted to continue going to school but my father said, 'You don't have a mother so you have to work.' The headmaster came home once and he told my father to send me to school. But my father refused and said, 'She needs to work.' He tried to convince my father but once my father refused, he went away and never came back. I tried going to school but my father said I have to learn to work. So I work all day. I have a one-hour lunch break. There are lots of farms nearby so I work in them. I also cook and clean the house.¹⁶⁷

Veena's father said he would send her to school, however, if he had a little support and someone could cook food. He told Human Rights Watch:

A teacher came twice two months after Veena stopped going to school. The teacher said, 'If she goes to school, studies well, she will get a job. So send her to school.' But I told him if my wife was around, I would send her to school. I don't even know how to cook, so I need her at home. Even now I feel I want her to go to school. If there's support, someone can cook food, I will send her to school. What will she do all day after she cooks? So she goes to work in the fields.¹⁶⁸

Veena's employer had at least two other children working for him on his groundnut farm. He said they were all above 14 years of age, as required by law, even though the children said otherwise.

¹⁶⁷ Human Rights watch interview with Veena (pseudonym), Mahbubnagar district, Andhra Pradesh, January 22, 2013.

¹⁶⁸ Human Rights Watch interview with Veena's father, Mahbubnagar district, Andhra Pradesh, January 22, 2013.

The Right to Education Act makes elementary education compulsory, and proper implementation with sustained intervention at the community level could help ensure that children like Veena are not denied an education.

Seventeen Children in Pindra, Uttar Pradesh

Human Rights Watch found that 17 children from Dalit families from the Ajaipur primary school in the Varanasi district of Uttar Pradesh state dropped out after completing grade V in 2012 and now work in the fields or in brick kilns. None of these children transitioned to upper primary school to attend grades VI to VIII.

However, these children did not show up in the child surveys conducted by the education department or the Ministry of Labor and Employment. Nor did neighborhood schools, government authorities, or panchayat members take any initiative to ensure the children were enrolled in grade VI. The education officer in charge of overseeing these hamlets told Human Rights Watch that in 2012 only five children were out of school in the area under his supervision and there were no dropouts. He admitted that it's possible that the Musahar hamlet in Pindra had fallen through the cracks and had not been included in any child survey.¹⁶⁹

The school principal at Ajaipur said it was not his duty to follow up after the children had completed grade V in his school:

We don't bear the responsibility for the children who have passed out of our school. Our responsibility is restricted to giving them important information about which school they can go to for admission. Unless parents are active and interested, we can't do anything. The responsibility for those children rests with their gram sabhas (a cluster of villages governed by a village council).¹⁷⁰

Gram sabhas often do not give priority to matters of education. In many cases, no official takes responsibility for keeping children from dropping out before completing their elementary education. Instead, like one of the parents in Pindra told Human Rights Watch,

¹⁶⁹ Human Rights Watch interview with education officer-in-charge of Pindra village, Varanasi district, Uttar Pradesh, April 15, 2013.

¹⁷⁰ Human Rights Watch interview with principal, Ajaipur primary school, Pindra, Varanasi district, Uttar Pradesh, April 15, 2013.

often there is pressure from the community and the local officials to maintain silence. Shyam's father said:

After we complained [of discrimination against our children in school], all the officers, police and the village chief came and said 'What are you doing? Stop all of this. Nobody will listen to you' The upper caste people in the village asked us to pay heed to the officials who had come and cautioned us against speaking out.

The officials were putting pressure on us and the police were threatening us saying that the teacher was right. But I said that it's fine if the teacher scolds or slaps our children a couple of times. But they should not beat up a child so badly as to break his hand. But when these powerful people in the village heard, they said, 'Don't send your children to school for.' My child did not get justice. There is only injustice here in place of justice.¹⁷¹

Ajay in Patna, Bihar

Ajay, 7, is a Dalit from the Musahar community and lives in a slum in Patna city. He is enrolled in a school right outside his settlement but does not know which grade he is in because he barely attends classes. Ajay is among 50 children from the slum who were enrolled in 2013 after an order by the National Commission for Protection of Child Rights (NCPCR).

Most children in the community work as rag-pickers. In January 2013, a 10-year-old girl from the slum said during a public hearing that she suffered discrimination and that the teachers had chased her away from school, leading to the NCPCR intervention and order mentioned above. But even after the intervention the school made no effort to encourage the children or otherwise ensure that they attend classes. In fact, as noted in Chapter II of this report, the school principal Pankaj Kumar said that the teachers often refused even to go to the Musahar settlement to speak to parents about their children's irregular attendance and motivate them to send their children to school. He said this was because the teachers considered the settlement dirty and looked down upon these children.¹⁷²

¹⁷¹ Human Rights Watch interview with Shyam's (pseudonym) father, Pindra, Varanasi district, Uttar Pradesh, March 20, 2014.

¹⁷² Human Rights interview with Principal Pankaj Kumar, Kumhrar middle school, Patna city, Bihar, July 16, 2013.

Ajay is left to sort through refuse, risking injury and infection, earning about INR 150 (less than \$3) per day. He said:

What will I go for school for? What will they teach me? My mother sends me to pick through the garbage every day. She never asks me go to school. Yes, I feel like going to school but no one from my community goes so how can I go alone? Here everyone is a rag-picker. When we pass anyone on the road, they say, 'Please don't touch us, stay away.' So we also keep our distance.¹⁷³

Ajay's case is illustrative of how weak implementation of education policies can push more children into labor markets. In this case, better coordination among the NCPCR (which directed the education authorities to ensure that children from this settlement were enrolled in school), education authorities (who helped enroll the children and then failed to follow up), and the labor department tasked with preventing child labor, could have ensured that these children stayed in school and received an education.

Shaheen in Bajardiha, Uttar Pradesh

Thirteen-year-old Shaheen spends most of her day engaged in the family's traditional occupation of sari weaving and handiwork. A few years ago Shaheen and several child workers from Bajardiha, a largely Muslim area in Varanasi city in Uttar Pradesh, were admitted to a special school run under the National Child Labor Project (NCLP). After three years of special schooling, they were enrolled in a mainstream school in grade VI. Shaheen received a stipend of INR 3000 (US\$50) when she first enrolled. But that was the only time that she went to the government upper primary school. She told Human Rights Watch that it was too far and so her family members did not allow her to go to school:

I didn't go even one day to school. My brother said it's too far, and asked me not to go. No one came from the school ever to check upon me. Other children from the neighborhood who went to the special school with me were also enrolled in that regular upper primary school but they never attended either.¹⁷⁴

¹⁷³ Human Rights Watch interview with Ajay (pseudonym), Patna city, Bihar, July 16, 2013.

¹⁷⁴ Human Rights Watch interview with Shaheen (pseudonym), Varanasi, Uttar Pradesh, April 10, 2013.

The upper primary school in which Shaheen was enrolled saw a considerable influx of children who were part of the National Child Labor Project, but very few have remained on its rolls. When Human Rights Watch went to the school, most children's names had been struck off because they had failed to show up for exams or even to collect their scholarship or free uniforms. The principal expressed helplessness:

Tell me what am I supposed to do? All these children are absent. Should I continue their names? They don't even come for exams. Should I just pass them and continue their names? Most children who came from NCLP schools have dropped out. We cut their names in June 2012 when they didn't come to take their scholarship money of Rs480 [US\$8] or appear for exams in the first quarter. But a few children's names are still there. We also returned the scholarship money to the education department for the children who dropped out. We returned 25 children's scholarship money this year.¹⁷⁵

Shaheen says she did not receive any follow-up visit from the National Child Labor Project or the labor department, which is responsible for the project.

Shaheen's case illustrates a larger problem in India: interventions to address child labor and bring working children back into age-appropriate classrooms fail because the labor department is poorly staffed, the labor and education departments do not do a good job of coordinating their efforts, and authorities do not follow up to ensure affected children make it back to school. India has both laws and policies to address child labor but, by the government's own admission, state-level monitoring is nonexistent in all but a few states.¹⁷⁶

¹⁷⁵ Human Rights Watch interview with principal of Sundarpur upper primary school, Varanasi, Uttar Pradesh, April 10, 2013.

¹⁷⁶ Ministry of Labor and Employment, India, Amended MoLE TaskForce Draft report, February 2013, <http://labour.nic.in/upload/uploadfiles/files/Divisions/childlabour/Amended%20MoLE%20Task%20Force%20Draft%20report%20%283%2920912%281%29.pdf> (accessed August 2, 2013). An evaluation of the functioning of the NCLP during the 10th five-year plan (2002-2007), commissioned by the Ministry of Labor and Employment, found significant gaps in implementation. Critical components of the NCLP include child labor surveys, public awareness campaigns, and coordination with other government departments such as health, women and child development, and rural development to ensure that children and their families have access to development schemes and services. The evaluation study found that the "actual implementation of these components have been abysmally poor, barring a few exceptions." Rehabilitation of Child Labor in India, Lessons Learnt from the Evaluation of NCLPs, V. V. Giri National Labor Institute, 2010, http://labour.nic.in/upload/uploadfiles/files/Divisions/childlabour/50484185b2of2NCLP_Book_Final_Published_2011_.pdf.



A girl in Uttar Pradesh embroidering saris instead of attending school. “No one came from the school ever to check upon me,” she told Human Rights Watch. Without proper monitoring and special lessons to place children into age-appropriate classrooms, many end up joining the work force. © 2013 Jayshree Bajoria/Human Rights Watch

Seema in Patna, Bihar

Seema, 13, finished grade V in a local government school a couple of years ago, but once she attained puberty, she dropped out; most parents in her Musahar community do not allow girls to study beyond primary school and prefer to get them married off early.

As Seema put it:

My parents tell me they will get me married soon. I don’t want to marry. I want to study till Class X but my parents no longer want me to study. Most girls from this hamlet don’t go to school. In our society, the girls are married off at an early age...When I say that I want to go to school, everyone in the village makes fun of me and says look, ‘This donkey wants to go and study.’¹⁷⁷

¹⁷⁷ Human Rights Watch interview with Seema (pseudonym), Sampatchak block, Patna district, Bihar, July 13, 2013.

In India, 47 percent of all women aged 20 to 24 are married before the age of 18 despite a law prohibiting child marriage. This is partly because panchayat officials, local government, and the police fail to enforce the law.¹⁷⁸ Seema and two of her friends attended an event organized by an NGO where they were encouraged to continue school, but the girls said they feel helpless:

If we report a case against our parents, then everyone will say ‘You are going against the parents who gave you birth.’ I want to study. If I were still going to school, only then could I have stopped my marriage. But now that I am not even going to school, what will I use as an excuse to stop my wedding?¹⁷⁹

Failure to Provide Bridge Classes for Migrant Children

Under the Right to Education Act, children who start school later than age six are to be admitted in an age-appropriate class with the help of special classes or training that can be extended up to a maximum of three years. Similarly, children who drop out of school can be brought back into the education system with the help of these bridge classes.

Children of seasonal migrant workers are particularly at risk of dropping out. Migrant workers, most of them Dalits, tribals, or members of other vulnerable communities, travel in search of work to rural or urban areas both within their home state and to other states. Children usually accompany their parents and then fall through the cracks when neither sending nor receiving states intervene to ensure that they are enrolled and remain in school. Mostly such children end up working alongside their parents.¹⁸⁰

¹⁷⁸ National Family Health Survey III, 2005-2006, http://www.rchiips.org/nfhs/a_subject_report_gender_for_website.pdf (accessed August 4, 2013).

The Indian government has failed to stop this practice despite numerous efforts, including passing the Prohibition of Child Marriage Act, 2006, No. 6 of 2007, <http://www.childlineindia.org.in/CP-CR-Downloads/Child%20Marriage%20Act%202006.pdf>.

¹⁷⁹ Human Rights Watch interview with Seema (pseudonym), Sampatchak block, Patna district, Bihar, July 13, 2013..

¹⁸⁰ According to the National Council for Rural Labour, there are about 10 million seasonal migrants in rural areas alone. Informal estimates put this number at about 30 million. Conservative estimates put the number of children aged 6 to 14 years accompanying their parents at about 20 percent of the adult seasonal migrant population, or some 6 million. Smita, “Distress Seasonal Migration and its Impact on Children’s education,” Consortium for Research on Educational Access, Transitions and Equity, Funded by DFID, May 2008, http://www.childmigration.net/files/create_o8.pdf (accessed January 5, 2013). It is well accepted by the government that child migrants form a large part of the workforce in several major sectors such as construction, brick kilns, small industries, domestic work, and farm work. National Advisory Council Working Group on Education, Ensuring the Right to Education of Excluded Children, 2012, <http://www.rtemaharashtra.org/downloads/excludedrep.pdf> (accessed April 11, 2014).

According to the Right to Education Act, it is the responsibility of local authorities to “ensure admission of children from migrant families.”¹⁸¹ The government’s policy is to provide hostels or seasonal hostels attached to existing schools in sending states so that children do not have to migrate with their parents, and are given necessary care and protection. Alternately, the receiving locality should enroll these children in special training with a view to admitting them in mainstream school.¹⁸²

Our research suggests that, in practice, access to schools remains a huge hurdle for many migrant children.¹⁸³ At the sending end, there are not enough seasonal hostels or alternative arrangements to ensure that children can stay back and continue their education when their parents migrate. At the destination end, there is lack of access to schools at work sites. “Distance is a big problem,” says Bhagyalakshi Rao of Mobile Crèches, an NGO providing early childhood care for children of migrant workers. “Usually, construction sites are not close to schools. Parents are reluctant to send children far for school.”¹⁸⁴

There are many additional challenges: parents often lack paperwork for children’s admission in schools; children who migrate to distant locations may not understand the local language; schools may not offer special lessons to help migrant children cope in age-appropriate classes; and teachers may be reluctant to enroll migrant children fearing they are likely to move away and drop out in a few months.

The government has largely been unable to create effective monitoring mechanisms to track these children. When migrant children return to their homes after migration season, the state too often fails to provide them with bridge classes that can help them catch up on the studies they have missed during the months they were away.

¹⁸¹ The Right of Children to Free and Compulsory Education Act, 2009, No. 35 of 2009, section 9(k), <http://www.azimpremjifoundation.org/sites/default/files/userfiles/files/RTE-Act.pdf> (accessed April 11, 2014).

¹⁸² India’s 12th five-year plan recommended that child labor surveys should specifically gather information on migration of children. It said residential schools should be opened in all metropolitan areas and mega cities and also in every district. It recommended that enrollment in these schools be open throughout the year given the irregular flow of migrants, and that the scheme be implemented as part of the National Child Labor Project put in place to combat child labor. Planning Commission, Government of India, Working group for social inclusion of vulnerable group like child labor and bonded and migrant labor in the 12th five-year plan (2012-2017), http://planningcommission.nic.in/aboutus/committee/wrkgrp12/wg_vulnerable_groups.pdf (accessed July 9, 2013).

¹⁸³ National Commission for Protection of Child Rights, “Monitoring the Rights of Vulnerable Migrant Children with Trafficking Point of View,” Approach Paper, 2013, <http://www.ncpcr.gov.in/Monitoring%20the%20Rights%20of%20Migrant%20Children.pdf> (accessed March 19, 2014).

¹⁸⁴ Human Rights Watch interview with Bhagyalakshmi Rao of Mobile Creches, New Delhi, May 13, 2013.

Narayan Reddy, revenue divisional officer in Gadwal mandal in Mahbubnagar district in Andhra Pradesh, said migrant children typically miss the bulk of the studies in an academic year. One of the biggest deterrents to their return to schools, he said, is reluctance from teachers. “Most teachers don’t take the responsibility to help these children with what they have missed.”¹⁸⁵

The school management committees (SMCs) or the relevant local government authority is supposed to make arrangements for bridge courses in existing schools wherever possible. If a school has insufficient space or teachers, separate space and teachers are to be provided.¹⁸⁶ In practice, however, there are not enough teachers even for regular classes, let alone for bridge courses. In March 2013, three years after the Right to Education Act came into effect, 1.1 million teacher posts remained vacant across the country.¹⁸⁷ A teacher in the upper primary school in Venkumpeth village in Mahbubnagar said:

There are gaps in learning among children. We don’t have any special classes for students who are lagging behind or who need to be caught up to an age-appropriate class because we don’t have enough teachers.¹⁸⁸

Even if out-of-school children who are engaged in labor are identified, teachers in regular government schools are resistant to enrolling them because they tend to be older children who have never been to school and the teachers lack the capacity to provide them with the special training necessary to admit them in age-appropriate classes. Rajendra Prasad, the former right to education monitor, said:

Teachers are not willing to enroll older children who have been working till now as they have to put in extra efforts to put them in an age-appropriate

¹⁸⁵ Human Rights Watch interview with Narayan Reddy, Gadwal, Mahbubnagar district, Andhra Pradesh, January 25, 2013.

¹⁸⁶ Planning Commission, Government of India, Working group for social inclusion of vulnerable group like child labor and bonded and migrant labor in the 12th five-year plan (2012-2017), http://planningcommission.nic.in/aboutus/committee/wrkgrp12/wg_vulnerable_groups.pdf (accessed July 9, 2013).

¹⁸⁷ Anubhuti Vishnoi, “A few RTE hits, many misses by states,” *Indian Express*, March 27, 2013,

<http://www.indianexpress.com/news/a-few-rte-hits-many-misses-by-states/1093785/o> (accessed June 25, 2013).

¹⁸⁸ Human Rights Watch interview with teacher (name withheld), Venkumpeth village, Gadwal mandal, Mahbubnagar district, Andhra Pradesh, Jan 22, 2013.

class. I didn't see any difference before RTE and after RTE when it comes to bringing out-of-school children into schools.¹⁸⁹

Samar in Varanasi, Uttar Pradesh

Samar, 10, migrated with his family to live at a brick kiln factory in Varanasi district in February 2013. They planned to return to their village once the monsoons began in July. Samar's family is Dalit, and migrates for several months every year to different places in search of work. Samar has been accompanying his family for years and usually works alongside them.

Samar told Human Rights Watch that his main job at the brick kiln was to push a cart to transport dried bricks to the furnace. He said he did not plan on returning to school when the family returned to their village in July: "I won't go back to school. When I don't understand anything in class, what's the point in going to school?"¹⁹⁰

There is no capacity or resources at his school to help migrant children. After years of sporadic attendance, Samar can no longer follow the curriculum. The principal of Samar's school said children start attending school when they return to the village during the monsoons. He admitted the school did not have the capacity to institute bridge courses to help these children cope with what they had missed in the months they were away. He told Human Rights Watch:

The biggest problem is that whatever we teach, the next day the child is absent. Irregular attendance really hinders learning. There are about 30 to 40 children in one class. So, either we leave all other students and teach the one child who has to catch up. If there's time we can help that child but there's no time.¹⁹¹

¹⁸⁹ Human Rights Watch interview with Rajendra Prasad, senior coordinator, M V Foundation, Hyderabad, January 21, 2013.

¹⁹⁰ Human Rights Watch interview with Samar (pseudonym) at a brick kiln in Pindra block, Varanasi district, Uttar Pradesh, April 9, 2013.

¹⁹¹ Human Rights Watch interview with principal, government primary school in Pindra block, Varanasi district, Uttar Pradesh, April 9, 2013.



Children of migrant workers, like these from Musahar Dalit families at a brick kiln in the Varanasi district of Uttar Pradesh state, miss school for several months a year and often end up as child laborers at work sites. © 2013 Jayshree Bajoria/Human Rights Watch

Reema in Gurgaon, Haryana

Ten-year old Reema came to Gurgaon with her parents, four brothers, and two sisters in 2010 from Bilaspur district in Chhattisgarh. Since that time, she has lived on several construction sites, traveling back to her village every few months.

When we met her, Reema was attending a non-formal education center run by the NGO Mobile Crèches at the construction site in Gurgaon where her family was living. But the non-formal education center is only a temporary solution because, as soon as her parents move, she will be forced to leave school again. Such non-formal education centers, moreover, are meant to serve as bridge classes to help children integrate better into the formal school system, not a substitute for schools.

Reema told Human Rights Watch she wants to start going to school:

I like to stay in the village. I don't like to travel all the time. Last time we were in the village, I told my father to get me admitted in the local school. I went to see the school with my father and really liked it. I want to go to school to study. I want to study and become a doctor.¹⁹²

Geeta Rawat, a teacher at the non-formal education center, says every time she has tried to enroll Reema in a school, she traveled back to the village. Rawat says they try to enroll all children between 6 and 14 years in a government primary school nearby, but it often proves to be a challenge. She said:

It's very difficult to get these children enrolled. Sometimes we get their names enrolled in the school, but then the children go away and by the time they come back, their names have been cut off. If the parents go by themselves to enroll these children in schools, they will have even a more difficult time. Teachers are reluctant to admit these children because they know the children will move away from here after a few months and so they tell us that, 'These children will spoil our attendance records.' There is a lot of pressure on the teachers to show high attendance. Otherwise they are told to go door-to-door and check on why the children haven't come to school. Where will they find these migrant kids?

Sometimes, we also have language problems such as with the children who are from [West] Bengal. Right now, we have more than 50 percent Bengali-speaking children. By the time we teach them Hindi to get them ready to go to school, they migrate to some other place.¹⁹³

Mita in Kurnool, Andhra Pradesh

Mita, 8, studies in grade IV in the primary school in her village in Kurnool district. Her parents migrate every year for two months during the school term and she goes with them.

¹⁹² Human Rights Watch interview with Reema (pseudonym), Mobile Creches center, construction site in Gurgaon, Haryana, May 28, 2013.

¹⁹³ Human Rights Watch interview with Geeta Rawat, teacher at Mobile Creches center, construction site in Gurgaon, Haryana, May 28, 2013.

Since 2010, the family has been migrating to nearby Guntur district to work on cotton and chili farms. When we met her, Mita said she played the whole day in Guntur while her parents worked, and then had difficulties keeping up in class when she returned to school after being away for several months:

There are no special classes in school to help me cope with what I missed in the two months when I am away with my parents. My teacher asks me to take the notes from my friend. If I don't understand anything, I ask my friend not the teacher. If the teacher asks me questions in class and I can't answer, then she hits me on the hand, both on the palm and on the back of my hand.¹⁹⁴

Lack of bridge classes means the likelihood of migrant children returning to school grows more remote with every passing year.

Poor Supervision by the Education Department

The state government is the main implementing authority for the Right to Education Act and the Directorate of School Education, with education officials at state, district, and block level, is the main supervisory authority. The officials are supposed to inspect schools regularly to ensure that the act's provisions are being adhered to.

However, there are no clear guidelines on the number of visits that officials should make to schools and no clear accountability processes for ensuring all children are enrolled and continue to attend school. A 2010 report by a committee set up by the national Department of School Education and Literacy noted that school supervision had grievously suffered in the last few decades due to "insufficiency of staff and administrative neglect." For the implementation of the RTE, the report recommended "periodic inspection/supervision of schools to observe the infrastructure and facilities and the administrative aspects."¹⁹⁵

Block resource centres and cluster resource centres were set up across the country under the Sarva Shiksha Abhiyan to improve the quality of elementary education. Under the RTE,

¹⁹⁴ Human Rights Watch interview with Mita (pseudonym), Yemmiganur mandal, Kurnool district, January 28, 2013.

¹⁹⁵ Ministry of Human Resource Development and Department of School Education and Literacy, Government of India, Report of the Committee on Implementation of the Right of Children to Free and Compulsory Education Act, 2009 and the Resultant Revamp of Sarva Shiksha Abhiyan, April 2010, <http://ssa.nic.in/quality-of-education/rte-reporting-by-anil-bodia-committee> (accessed July 1, 2013).

their roles have been revamped. In addition to providing academic support to teachers, the block resource staff are now supposed to consult with the school management committees (SMCs), community members, and local authorities in formulating school development plans. Cluster resource centre staff are now supposed to make regular school visits and hold meetings with members of the SMCs and other local bodies for school improvement, support school development plans, and ensure that the special training programs are properly designed and implemented for out-of-school children so that they can be admitted to age-appropriate classes.¹⁹⁶

According to District Information System for Education (DISE) data, an average of only 51 percent of schools nationwide were inspected in 2010-2011. In Uttar Pradesh, this figure was only 28 percent while in Andhra Pradesh it was 31 percent. DISE data show that cluster resource centre coordinators visit 65 percent of schools nationwide; Karnataka had the best record with 92 percent while Uttar Pradesh again featured among the bottom states with 34 percent.¹⁹⁷

Corruption and Other Malfeasance by School Authorities

Lack of accountability coupled with pressure to show results have led some schools to adopt corrupt practices such as faking attendance records.

At least three school principals told Human Rights Watch that they felt they had no choice but to inflate attendance because of pressure from education department officials. In several other instances, Human Rights Watch independently found evidence of this practice.

A teacher in a primary school in Azamgarh told Human Rights Watch that he faked attendance records to avoid pressure from education officials. “If the attendance is less than 80 percent, the education officials question us. Where are we going to go to get the children?”¹⁹⁸

¹⁹⁶ Ministry of Human Resource Development, Government of India, 2011 SSA Framework for Implementation based on Right to Education Act 2009, Chapter 4, http://www.upefa.com/upefaweb/admin/myuploads/SSA_Frame_work_%28revised%29_9-6-2011.pdf (accessed July 9, 2013).

¹⁹⁷ District Information System for Education, “Elementary Education in India, Analytical Tables 2011-12,” <http://www.dise.in/Downloads/Publications/Publications%202011-12/Analytical%20Tables%202011-12.pdf> (accessed June 25, 2013).

¹⁹⁸ Human Rights Watch interview with a teacher (name withheld), Azamgarh, Uttar Pradesh, April 16, 2013.

The principal of a primary school in a different village in Azamgarh said there were 300 children enrolled in her school but maximum attendance on any given day was only about 120. Many of the children enrolled in the school came from a Scheduled Tribe where parents travel during the harvest season to beg, she said. The children went with the parents and therefore, were absent for weeks. The principal said there is pressure from the education authorities to have at least 70 percent attendance. “We have to [keep children on the attendance register] so we show them to be present for a few days,” she admits.¹⁹⁹

Most teachers interviewed by Human Rights Watch said they had no clear understanding on whether they should be cutting children’s names from the register once they qualify as dropouts as per state rules or continue their names until the end of academic year. Lack of guidelines also foster lack of accountability and corruption among school authorities.

The principal of a primary school in Phulwari Sharif block in Patna district said that while the school removes the names of most children absent for three months, it keeps on the registry children belonging to the village’s dominant castes. “I have to maintain their names in the school register so that they can get all the entitlements such as money for uniforms, scholarship, free books. If I don’t do this, I won’t be able to keep the job.” While children from privileged households received all the entitlements even when they do not attend school at all, several Musahar children from a nearby hamlet complained that they were cut off from all entitlements as soon as their attendance fell below 75 percent.²⁰⁰ The same principal also admitted that he charged students money for books and for admission. “We don’t give the parents a receipt. This is all just an understanding among us. We have to charge the parents otherwise how will we pay for electricity, for transportation of books to bring them to school?”²⁰¹

A Dalit woman who had migrated with her family to Mittenchak village in Patna district in Bihar to escape the harassment of dominant caste Yadavs said the teachers in her son’s school never removed the names of the children who no longer went to school, including girls who had married and moved out of the village. She said, “The teachers used to visit

¹⁹⁹ Human Rights Watch interview with a principal, Barigaon village, Azamgarh district, Uttar Pradesh, April 16, 2013.

²⁰⁰ Human Rights Watch interview with children, Bishenpur Pakri village, Phulwari Sharif block, Patna district, Bihar, July 15, 2013.

²⁰¹ Interview with principal of a primary school, Phulwari Sharif block, Patna district, Bihar, July 15, 2013.

the homes of such children who were no longer in school and get signature of their parents to show that they have received scholarship money and pocket it all themselves.”²⁰²

Principals also adopt other practices that violate the provisions of the education law and lead to problems in retaining children in school. The principal of the Azamgarh school who admitted faking attendance records said her school had no special classes for older children or those who returned after having dropped out:

If a child comes to us for enrollment in school when he is 10 years old and hasn't even learned the basics, then we put the child's age as six and enroll him in class I. Children attend school irregularly when we put them in a class lower than what's appropriate for their age. But if we put them in an age-appropriate higher class and pay special attention to one child, then we can't teach any other child.²⁰³

If the monitoring mechanisms worked the way they were supposed to, members of the SMCs and village panchayats, with the help of the community, would map the special needs of children in the community, and the education department would provide the resources needed to ensure all children are enrolled in and regularly attend age-appropriate classes.

The Challenge of Community and School-Level Monitoring Systems

The Right to Education Act requires that SMCs have at least three-fourth parent-members, with adequate representation of parents of children from disadvantaged communities, and that at least half of the members be women.

In Bihar, the schools have ad hoc committees in lieu of SMCs.²⁰⁴ Human Rights Watch met mothers in groups, some of whom were members of these ad hoc committees, and found

²⁰² Human Rights Watch interview with Rajesh's mother, Mittenchak village, Patna district, Bihar, July 12, 2013.

²⁰³ Human Rights Watch interview with a principal, Barigaon village, Azamgarh district, Uttar Pradesh, April 16, 2013.

²⁰⁴ Bihar Elementary School Education Committee Act, 2011, No. 12 of 2011, <http://www.taxandlawdirectory.com/content/bihar-elementary-school-education-committee-act-2011>, (accessed December 20, 2013). Ad hoc committees comprise six to seven members that include the elected ward member of the gram panchayat (local authority), the principal or head teacher, and the mothers of children who are the best academic performers from a few chosen grades. Each mother represents a different caste category: general category, scheduled caste, extremely backward class, backward class, and Scheduled Tribe (in gram panchayats in which Scheduled Tribes constitute 5 percent or more of the population). The ward member acts as chairperson while one mother among the members is elected as secretary.

them mostly unaware of their roles and responsibilities under the law. The mother of a minority group who is member of such a committee in Patna district said she did not know anything about the Right to Education Act and had not been given any training. She said the advice of the mothers is not really sought by others on the committee: “I attend meetings. The principal does most of the talking.”

The situation is little different in rural Uttar Pradesh or Andhra Pradesh where members of the school committees rarely knew of their roles and responsibilities. In Uttar Pradesh, Human Rights Watch found that parents from the Musahar Dalit community often did not know about such committees. Some teachers and education officials blamed the parents. “Until parents are enlightened, school management committees can’t be active,” one teacher in Varanasi city told Human Rights Watch.²⁰⁵ The principal of the Lodhi school in Sonbhadra district in Uttar Pradesh where children from Ghasiya tribe were discriminated against (as described in Chapter II), said the school committee did not have any members from Ghasiya tribe “because these parents are not active and will not come for meetings when asked.”²⁰⁶

In Mahbubnagar district in Andhra Pradesh, the principal of a primary school told Human Rights Watch that although a SMC was constituted, they managed to meet only once in three months instead of every month as per the rules. He added that the committee was ineffective as most parents did not come to the meetings.²⁰⁷ MV Foundation’s Rajendra Prasad said the committee members are given only a day-long training, which is grossly inadequate for them to be able to carry out their roles meaningfully.²⁰⁸

Under the Right to Education Act, each SMC is required to formulate a school development plan in order to be eligible for government infrastructure development grants. The school development plan is meant to be a comprehensive plan that focuses on all aspects of the school including protection of children’s rights, classroom processes, and inclusiveness.²⁰⁹ This could be a powerful tool in the hands of the community. But the committees will have to be constituted and be given sufficient

²⁰⁵ Human Rights Watch interview with a teacher from government primary school, Varanasi city, Uttar Pradesh, April 10, 2013.

²⁰⁶ Human Rights Watch interview with principal of Lodhi school no. 2, Sonbhadra district, Uttar Pradesh, April 18, 2013.

²⁰⁷ Human Rights Watch interview with principal of a government primary school, Mahbubnagar district, Andhra Pradesh, January 22, 2013.

²⁰⁸ Human Rights Watch interview with Rajendra Prasad, senior coordinator, M V Foundation, Hyderabad, January 21, 2013.

²⁰⁹ Ministry of Human Resource Development, Government of India, 2011 “SSA Framework for Implementation based on Right to Education Act 2009,” Chapter 9.

capacity to help devise such plans. For now, they are either missing or being mostly drawn up by the principals.²¹⁰

Role of the Panchayat (Local Village Council)

The local authority such as the gram panchayat at the village level is also responsible for monitoring schools and implementing the education law. However, gram panchayat members rarely receive training to carry out these responsibilities.²¹¹

Prem Paswan, chief of gram panchayat Bhilwara-Datyapur in Sapatchak block in Patna district, told Human Rights Watch that the ad hoc committees in local schools did not have monthly meetings as required. He said he did not have authority to insist that teachers organize such meetings but added that he also preferred not to put too much pressure on the teachers because they were important voters who carried influence with other voters.²¹²

Usha Devi, village council chief in in Chati in Patna district, said the “head of the gram panchayat does not pay attention to education and that’s why our children haven’t been able to study.” She said the principal did not always come to school and the school did not open every day. When asked if she, as the head of the village, had spoken to the principal, she said “No, I haven’t spoken to the teacher. Who listens to women?” Usha Devi said she did not know what the Right to Education Act was or what a school development plan was.²¹³

²¹⁰ A study conducted by the Centre for Child and the Law at the National Law School in Bangalore to assess the implementation of the RTE at the panchayat level found serious gaps. The study looked at Bannikuppe panchayat comprising 26 villages/habitations in Ramanagar District in rural Karnataka. It found that requisitions made by SMCs to the panchayat received very little or no attention. It recommended that school development plans be created through the democratic processes of SMCs and that SMCs have complete freedom to identify the needs of the school, with the government stepping in to fulfil the requirements. This would enable the SMCs to promote holistic development plans as specified in the Education Act. Dr. VP Niranjana Radhaya and Abhinav Jha, “Right of Children to Free and Compulsory Education ACT –Miles to Go...A Case Study of a Gram Panchayat,” Centre for Child and the Law, National Law School of India University, Bangalore, April 2013, <http://www.nls.ac.in/ccl/cclmedia/ER/miles.pdf> (accessed April 11, 2014).

²¹¹ The Centre for Child and the Law study found that panchayat members received no information about the Right to Education Act or its rules, and had no idea about its structure or operation. The study also noted that teachers were not trained in the Right to Education Act, no senior person from the central or state government ever came to monitor the implementation of the RTE, the panchayat received no grant specifically to carry out the provisions of the act, and that monitoring of schools did not take place because of a tacit understanding between teachers and the cluster resource persons who monitor the school. Dr Niranjana Radhaya V P and Abhinav Jha, “Right of Children to Free and Compulsory Education ACT –Miles to Go...A Case Study of a Gram Panchayat,” Centre for Child and the Law, National Law School of India University, Bangalore, April 2013, <http://www.nls.ac.in/ccl/cclmedia/ER/miles.pdf> (accessed April 11, 2014).

²¹² Human Rights Watch interview with gram panchayat chief Prem Paswan, Sampatchak block, Patna district, July 13, 2013.

²¹³ Human Rights Watch discussion with community members in a village in panchayat Chati, Patna district, July 14, 2013.

Caste politics may also prevent gram panchayat presidents from fulfilling their duties to ensure that every child is able to go to school in a safe, secure, and friendly environment. In the case of caste discrimination and the beating of Dalit children in the government primary school Pindra No. 1 in Uttar Pradesh (detailed in Chapter II above), the gram panchayat president, who had held the post for 12 years, defended the school authorities rather than the rights of the affected children. In written testimony to the education department in July 2011, he said “No such incident took place due to which a child or his family was harmed.” He added that the newspaper article that reported on the incident of a child being beaten badly by a teacher, which resulted in his hand being broken, presented the matter in an “unnecessary manner” and gave “unnecessary importance” to it.²¹⁴ The education department, however, concluded that discrimination had indeed occurred at the school.²¹⁵

By contrast, at a village in Kurnool district, Andhra Pradesh, that had high incidence of child labor, a concerted community effort managed to eradicate child labor and ensure that all children went to school regularly. Members of the Hyderabad-based M.V. Foundation engaged in Narsipalli village with farmers, cotton seed organizers, and companies, and in about four years were able to help end child labor. Some members of the community told Human Rights Watch that they visited some model gram panchayats in another district to learn how to keep records of school-going children as well as child labor. “We also learned which departments come under the control of the gram panchayat and are accountable to the panchayat. As a result, we have now formed sub-committees that monitor concerns related to health and child rights,” a community member said.²¹⁶

Ineffective Grievance Redress

The Right to Education Act (RTE) lacks a clear and effective grievance redress mechanism. SMCs and local authorities do not have the capacity to receive and address grievances, and state-level mechanisms, such as the state commissions for the protection of child rights, where they exist, are not immediately accessible at the village level.

²¹⁴ Signed testimony dated July 7, 2011; copy on file at Human Rights Watch.

²¹⁵ Human Rights Watch interviews with members of People’s Vigilance Committee on Human Rights (a nongovernmental organization based in Varanasi, Uttar Pradesh), April 15, 2013; Education Department documents related to the investigation including signed testimony of the village chief, written testimonies of children, and notices from the district basic education officer, copies of which are on file at Human Rights Watch.

²¹⁶ Human Rights Watch community discussion, Narsipalli, Uyallawada block, Kurnool district, Andhra Pradesh, January 29, 2013.

The National Advisory Council's Working Committee on RTE stated in January 2013: "In most States there continues to be lack of an operational monitoring, accountability and grievance redress architecture and mechanisms with rules, norms and guidelines specifying how these mechanisms will function."²¹⁷ The council formed a working group that drafted some guidelines on grievance redress and recommended that there should be an independent appellate unit at the district level and independent child rights commissions at the state level.²¹⁸

A pending 2011 draft bill would create a nationwide grievance redress mechanism to ensure timely delivery of all goods and services to citizens. If passed, the bill could provide some help to address the absence of effective grievance mechanisms in education, as well as in other areas.²¹⁹ Big questions remain, however, about how the bill will be implemented, how far it will address recommendations drafted by the National Advisory Council on what a grievance redress and appeals structure will look like and how it will operate, and when the bill might be enacted.

Some states— such as Rajasthan, Uttarakhand, and Haryana—have already laid down their own grievance redress guidelines.²²⁰ Others like Orissa have set up a toll free helpline. Vandana Prasad, former head of the RTE division at the National Commission for Protection of Child Rights, says it is still unclear whether "a single window approach will work for the entire social sector," and how independent a grievance redress body would be.²²¹

²¹⁷National Advisory Council, Working Group on Right to Education, "Monitoring, Accountability and Grievance Redress Mechanisms for The Right to Education," January 2013, http://nac.nic.in/press_releases/rte_gr_reco.pdf (accessed July 9, 2013).

²¹⁸ Ibid.

²¹⁹ The Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011 <http://www.prsindia.org/billtrack/the-right-of-citizens-for-time-bound-delivery-of-goods-and-services-and-redressal-of-their-grievances-bill-2011-2125/> (accessed December 15, 2013). The bill was introduced in Lok Sabha in December 2011. It was then referred to the Department Related Standing Committee on Personnel, Public Grievances, Law and Justice (Chairperson: Mr. Shantaram Naik). The committee's report was submitted on August 30, 2012.

²²⁰ RTE Forum, "Status of Implementation of the Right of Children to Free and Compulsory Education Act, 2009: Year Three (2012-13)," draft report, April 2013, <http://www.rteforumindia.org/sites/default/files/RTE%20Forum%20Draft%20Stocktaking%20Report%202013.pdf> (accessed October 29, 2013).

²²¹ Human Rights Watch interview with Vandana Prasad, former head of the RTE monitoring cell at the National Commission for Protection of Child Rights, Delhi, August 30, 2013.

IV. Recommendations

The government of India has taken a significant step toward ensuring that all children receive elementary education by enacting the Right to Education Act. But without improved monitoring and accountability mechanisms, government and school officials will be unable to identify and remedy discrimination and intervene promptly to address the needs of out-of-school children and those at risk of dropping out. As a result, children from vulnerable communities will continue to be deprived of their right to education.

To India's Central Government

- Take steps for the effective implementation of the Right to Education Act that focus not simply on enrollment, but on the retention of every child in school at least until age 14. An essential first step is creating and implementing a system to monitor and track all children from the time they are enrolled to the time they graduate grade VIII, and a uniform protocol for identifying children who are out of school, have dropped out, or are at risk of dropping out.
- Develop clear standards for monitoring children at risk of dropping out, and develop mechanisms to ensure relevant authorities undertake social mapping, especially in marginalized communities, engage with minority communities, and intervene to ensure that children who have left school can return.
- Develop clear indicators to improve the detection of and response to discrimination in schools. The National Commission for Protection of Child Rights should develop guidelines to address discrimination and other abuses of children, and set out appropriate disciplinary measures.
- Direct the Ministry of Human Resource Development to implement the recommendations on ending discrimination in schools proposed by the National Advisory Council's Working Group on the Right to Education Act on ending discrimination in schools. These include developing an "equality index" that sets down "monitorable norms and benchmarks to assess the degree of inclusiveness, diversity and equality in schools," using parameters such as participation, attendance, and classroom practices.

- Instruct the Ministry of Human Resource Development to develop guidelines and manuals for teachers that set forth good practices for social inclusion and equity, such as encouraging children from marginalized communities to participate in school activities, ensuring more frequent collaboration between children of different castes, and promoting innovative activities aimed at inclusion.
- Direct the Ministry of Human Resource Development to ensure that the National Council for Teacher Education (NCTE) incorporates the recommendations laid out by the National Task Force on Equity and Inclusion in the revised curriculum for teacher education. These inputs should be included in the NCTE's work with various states to develop state teacher education curricula.
- Create mechanisms for regular meetings and sharing of information and ideas among various ministries and departments that are critical to successful implementation of the Right to Education Act, including Education, Human Resources, Women and Child Development, Labor, Minority Affairs, Tribal Affairs, Social Welfare, and Panchayat Raj.
- Ratify ILO Convention No. 131 on Minimum Age (1973), and set 15 as the minimum age at which children can start regular work.

To State Governments

- Expand implementation of the Right to Education Act beyond enrollment to mechanisms that ensure the retention of every child in school until age 14, including a system to monitor and track every child from enrollment through completion of grade VIII.
- Train teachers, education department officials, local authorities, and members of school management committees to better identify and respond to discrimination and exclusion and to develop innovative ways of promoting a more child-friendly environment in school.
- Encourage teachers to develop methods, such as group activities and interactive learning, that facilitate greater interaction among children of different socio-economic and caste backgrounds.
- Undertake public awareness campaigns on the right to education, including the prohibition against discrimination in education, and involve children as appropriate.

- Establish independent children’s rights commissions and encourage them to set up grievance redress helplines to address violations of the right to education, including discrimination and other abuses of students.
- Ensure that every school creates a transparent, trained, and effective school management committee in accordance with the Right to Education Act. Special efforts should be made to ensure full participation by members of marginalized communities.
- Implement the recommendations by the National Advisory Council Working Group on the Right to Education Act on strengthening community-based mechanisms.
- Encourage parents’ participation in regular parent-teacher meetings, including by involving school management committee members and panchayat representatives.
- Provide ways to give children a greater role in reducing discrimination in schools, such as by having student committees with representation from minority communities discuss these issues and make recommendations to school management committees.
- Work with civil society groups to deploy village-level community mobilizers to encourage parents to send their children to school, particularly where child labor is common.
- Ensure greater cooperation and coordination between different departments that look after aspects of child protection, such as the education department, labor department, and tribal welfare department. Officials from these departments should meet at least monthly and share information, including on the challenges they face, and what kinds of support they need from each other.

To Foreign Donors, Aid Agencies, and Concerned Governments

- Support government initiatives and provide technical assistance to develop better guidelines for monitoring and effective implementation of the Right to Education Act.
- Provide technical assistance to support government initiatives to eliminate discrimination against marginalized communities in primary education.
- Provide technical assistance to help develop curricula and teaching methods that promote a child-friendly environment in school focusing on inclusion and equity.

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Appendix²²²

Civil Society Guidelines to End Discrimination in Education

This is the right of every student in a school. Violation of any of these is a punishable offence.

- All students must be treated equal and with dignity and respect irrespective of caste, religion, gender, class, region, race, family occupation, language, or disability.
- No distinction should be made between students on the basis of identity or for any other reason.
- There should be no name calling on the basis of caste/religion/family occupation. No one should question a student's patriotism, suggest violence/terrorism, or refer to children by their disability.
- All students should be allowed to drink water from the same water source. All students should have equal access to the toilets.
- There should be no denial, delay, or limit in providing any benefit arising out of a student's enrolment in the institution.
- There should be no discrimination or segregation during mid-day meals in schools. All students should be offered similar utensils to eat in and there should be no discrimination in the manner the food is served, the order in which students are served, and where the students sit while eating. There should be no discrimination in hiring mid-day meal cooks.
- There should be no physical, mental, or emotional abuse of any student. Teachers should intervene when there are fights between students.
- All students should be given equal opportunity and encouraged to participate in leadership positions and all activities in school.
- All students should have access to school resources, learning materials, and sports materials.

²²² These guidelines were prepared by Human Rights Watch as part of a civil society consultation in collaboration with Centre for Social Equity and Inclusion and National Campaign for Dalit Human Rights, New Delhi, December 19, 2013.

- No student should be made to clean any part of the school or fetch things for teachers/principal.
- Students' academic performance should not be subject to ridicule and at no time, connections to their caste, religion, gender, family occupation, disability, or personal background should be made. Teachers should not refer to children's caste, gender, religious, family occupation, or disability in any way and discourage any such talk among students too.
- Seating arrangement in class should not be discriminatory toward any student. It should be devised in a way which allows every student a chance to sit in the front at least some days in a month.
- Teachers/academic staff should encourage all students to ask questions and not scold or humiliate a student when he/she gives wrong answers. Every student's notebook should be corrected.



India's ambitious Right of Children to Free and Compulsory Education Act, in effect since 2010, guarantees free elementary schooling to every child between ages 6 and 14. While India has since achieved close to universal enrollment in the early grades, attendance rates tell a very different story. Over 40 percent of children throughout the country drop out of school before completing grade VIII.

A serious hurdle in retaining children in the classroom is persistent discrimination against children from the most marginalized and vulnerable communities, including Dalits, tribal groups, and Muslims. *"They Say We're Dirty"*—based on case studies from the states of Andhra Pradesh, Bihar, Uttar Pradesh, and Delhi—examines the various forms of discrimination children face in government schools and sets forth detailed recommendations for addressing them.

The report finds that programs designed to address the needs of vulnerable children, such as special courses for those who have dropped out or schools at work sites for children of migrant workers, are yet to be properly implemented. Mechanisms for addressing grievances and holding school officials accountable for discriminatory practices are largely missing.

Human Rights Watch believes that improved accountability is essential to more effective implementation of the Right to Education Act. It urges that central and state governments immediately implement plans to monitor and track every child from enrollment through completion of grade VIII, and intervene promptly to ensure that children who attend school irregularly, are at risk of dropping out, or have already dropped out, can return to school. Teachers should be trained and encouraged to end exclusion of marginalized groups. And authorities should improve indicators to detect discrimination in schools, and discipline school officials found responsible.

(above) A cook serves the free mid-day meal in a government-run primary school in a village in the eastern Indian state of Bihar.

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(front cover) A primary school in Sonbhadra district, Uttar Pradesh. The school's principal told Human Rights Watch that the tribal students are a "big problem." "Their main aim is to come and eat, not to study," she said. "Just see how dirty they are."

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