



Achieving Equal Chances at Education: Laws and Perspectives on Progress in India

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About this Study

In every country, national laws and policies shape fundamental opportunities for women and girls. Well-designed and implemented laws and policies that guarantee gender equality and prohibit discrimination can truly transform whether women and girls have equal chances to access institutions, lead healthy lives, and fully participate in their societies. This India-focused policy brief series is part of a larger effort examining how laws and policies can advance gender equality in diverse countries globally, and focuses on accelerating equal chances. This work was made possible by the generous support of the Bill & Melinda Gates Foundation. We were incredibly fortunate that Kate Somers helped conceptualize and shape this work from the start. Kate Somers, Sarah Hendriks, and Katherine Hay provided invaluable guidance as the WORLD team was carrying out the research and developing these policy briefs.

These briefs draw on WORLD's global law and policy databases and a series of in-country roundtable discussions and semi-structured interviews with a diverse range of lawyers, policy experts, civil society leaders, and researchers. The findings and recommendations presented in these briefs build on the contributions of members of civil society and intergovernmental organizations, who were invited to speak from their experience and expertise and not asked to represent institutional positions. Summary recommendations and any errors are the responsibility of the authors. We are deeply grateful for the time and insights contributed by the following individuals and organizations::

Sona Mitra, Richa Chintan, Protiva Kundu, and Kanika Kaul, Centre for Budget and Governance Accountability (CBGA); Dipa Sinha and colleagues, Centre for Equity Studies; Rajendra Mangain, Giri Institute of Development Studies; Asmita Basu, independent legal researcher and consultant; Preet Rustagi, Institute for Human Development; Anweshaa Ghosh and Mubashira Zaidi, Institute of Social Studies Trust (ISST), New Delhi; Reiko Tsushima, International Labour Organization (ILO) Decent Work Team for South Asia; Govind Kelkar and colleagues, Landesa; Anu Madgavkar, McKinsey Global Institute; Venkat Reddy, Mamidipudi Venkatarangaiya (MV) Foundation; Tanushree Soni, Population Services International; Kalpana Viswanath, Safetipin; Bina Angarwal, University of Manchester, UK; Alliance for Right to Early Childhood Care and Development & Mobile Crèches; Association for Advocacy & Legal Initiatives (AALI); Centre for Advocacy & Research (CFAR); Department of Integrated Child Development Services (ICDS) Bihar; Know Violence in Childhood; Lawyers Collective; Pratham Education Foundation; UN Women.

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A global body of literature suggests that access to education, and in particular secondary education, is one of the greatest drivers of improvements in girls' health, autonomy, and economic opportunities.¹ The importance of girls' education was underscored by two original studies undertaken as part of this initiative; both a global analysis of DHS data from 47 countries and an India-specific analysis of NFHS data reveal that girls' education exerts the most consistent and considerable positive influence on maternal and child health outcomes, relative to other select social determinants of health. Guided in part by these findings, this brief focused on India's progress towards the realization of equal chances at education.

Girls in India, like girls in many countries around the world,² have historically faced disproportionate obstacles to their full participation in education. Since the beginning of the 21st century, the Indian government has taken major steps to address these long-standing gender-based exclusions and advance widespread access to primary education. These efforts have dramatically expanded access to primary education, but challenges related to quality and access to secondary education remain.

Addressing these remaining challenges could transform the lives of millions of girls in India, and help the global community learn and transfer what works to other nations where similar barriers impede gender equality in education. In order to formulate a set of concise, actionable recommendations focused on addressing policy gaps and accelerating implementation to advance girls' educational opportunities in India, this brief synthesizes key evidence from globally comparative data, insights from in-country stakeholders, and the research base on advancing education.

Key Recommendations

- Extend the Right to Education Act's guarantee of tuition-free, quality education beyond elementary to include pre-primary and upper-secondary.
- Establish a responsible body with necessary resources to meet the norms and standards outlined in the Right to Education Act; Training of Teachers; Quality Enhancement.

Overview of the Status and Implementation of Laws that Advance Girls' Education

The Indian government took two major steps to advance access to primary education for all: 1) Article 21-A was added to the Constitution of India through the 86th Amendment to guarantee all children aged 6-14 with access to free and compulsory education,³ and 2) a large-scale education program, Sarva Shiksha Abhiyan (SSA), was initiated to universalize access to elementary through a variety of interventions.⁴ These efforts were further supported by the passage of the Right of Children to Free and Compulsory Education (RTE) Act of 2009, which came into effect in April 2010.⁵

These efforts have been met with remarkable success, and gender parity has been achieved at the primary level; since 2000-01, the Gender Parity Index (GPI) for gross enrollment in elementary steadily increased from .82 to

1.03 in 2013-14.⁶ Additionally, children in nearly all eligible regions have access to a lower-primary school within 1 kilometer of home, and an upper-primary school within a walking distance of 3 kilometers⁷—an important accomplishment that supports girls’ attendance.⁸

However, these remarkable successes at the primary level are accompanied by persistent challenges that continue to constrain girls’ educational opportunities in India at secondary level (grades 9-12), which was excluded from the constitutional and legislative guarantees to tuition-free, compulsory education contained in the 86th Amendment and the RTE Act. While girls’ access to secondary has also increased over time, a gender gap persists; only 89 girls per 100 boys have accessed secondary,⁹ and drop-out rates remain high among boys and girls.¹⁰ Further, quality of education remains a major concern across all levels; advocates and practitioners are in agreement that huge investments in infrastructure, administrative capacity, and human capital are required to truly realize the standards of quality and stated aims of the RTE Act.¹¹

Recommendation 1a: Guarantee Access to Tuition-free Pre-primary Education

Early childhood care and education is recognized as an important way to prepare girls and boys for success in primary school and has been linked to a number of measures of cognitive development across diverse societies,¹² including India.¹³ Widely available pre-primary also serves as a way to support older girls’ school attendance, by relieving them of the disproportionate burden of caregiving for younger siblings.¹⁴ **Absence of such a widespread, freely available public system of early childhood care and education is not unique to India—93 other countries similarly lack such a system.**¹⁵

Though it is not considered a widespread pre-primary system, India’s national program, **the Integrated Child Development Services (ICDS), does partially fill this gap in the provision of services to young children.** Launched in 1975,¹⁶ the ICDS is a national flagship program which seeks to provide the 158 million Indian children aged 0-6 with improved supplementary nutrition services, education on health and nutrition for families, immunization, health check-ups and referral services, and non-formal preschool education and child care through the 40,000 Anganwadi Centres spread throughout the subcontinent.¹⁷ However, benefits and services made available through the ICDS are not statutory obligations on the state, and children are not guaranteed access to free education until age 6.

- Implementation of the ICDS has been characterized by advocates as “inadequate and poor in quality”¹⁸ and government reports concede that **“there is overwhelming evidence that the preschool education component of the ICDS schemes is particularly deficient in quality and almost non-existent in anganwadis.”**¹⁹
- In 2014, 54% of 3-year-olds and 52.8% of 4-year-olds in rural India enrolled in these government services.²⁰ However, even when properly implemented, the informal preschool component of the ICDS is not designed to provide comprehensive pre-school education, and these children are not receiving the amount and level of educational support necessary to ensure preparation for primary school among first-generation learners.

Consequently, **early childhood advocates in India are united in their call for stronger legal entitlements for the “Under Sixes,” including the right to free, age-appropriate pre-primary education** for children ages 3-6.²¹

Globally, **69 countries currently guarantee at least one year of free pre-primary.** In advance of national legislative action around educational entitlements for young children, many advocates and practitioners consider the National Early Childhood Care and Education (ECCE) Policy (2012) a “very good start,” as the ECCE Policy benefited from an excellent participatory process which meaningfully incorporated input from civil society. Noteworthy provisions of the ECCE include quality standards that outline adequate indoor and outdoor space, cooking and

sanitation facilities, instruction in the local vernacular, as well as no child being required to take admissions tests.²² While there is strong consensus that the establishment of free quality education for children under age 6 is long overdue, opinions diverge on the appropriate legislative mechanism for the extension of children's right to pre-primary education. Some call for the inclusion of the 3-6 age group in an amendment to the RTE, while others favor a separate comprehensive law for the right to early child development based on the Early Childhood Care and Education Policy (ECCE).²³

Amid calls for national action on expansion of legal entitlements to children under age 6, **grassroots partnerships have illustrated that the provision of high-quality pre-primary need not come at prohibitive expense.** Pratham, an India-based educational non-profit focused on "high-quality, low-cost, and replicable interventions to address gaps in the education system"²⁴ initiated and built a statewide partnership with the Bihar state government that has expanded capacity for provision of quality early childhood education within the existing ICDS structure. Motivated by a familiarity with Sweden's international reputation as a leader in early childhood education, Pratham staff based in Bihar and a government officer from the Department of ICDS Bihar visited the Swedish Ministry of Social Welfare to undertake an international exchange around the adaptation of high-quality curriculum materials, and best pedagogical practices at the pre-primary level. Today, use of this curriculum has expanded these best practices to other low-resource settings in Uttar Pradesh, and the Bihar state government has formalized plans to gradually train all Anganwadi workers in the curriculum to enable statewide expansion.

Recommendation 1b: Extend the Scope of the Right to Education Act through Upper-secondary

Constitutional and legislative guarantees to tuition-free, compulsory education begin at age 6 and end at age 14 in India. **Government schools that charge tuition for students aged 15-18 in grades 9-12 create a financial barrier to secondary education that disproportionately disadvantages girls;** evidence worldwide²⁵ and in India²⁶ suggests that parents who cannot afford to educate all of their children often invest in education for their sons instead of their daughters.

Currently, the government of India provides funding for two economic incentive programs at the secondary level, but **neither of these national schemes provides financial support to all students at the critical transition point between upper-primary and lower-secondary:**

- the National Means Cum Merit Scholarship, which provides a monthly stipend to select students from poorer households in grades 9-12 who perform well on state government exams;²⁷ and
- the National Scheme of Incentives to Girls for Secondary Education, which is designed to encourage girls from scheduled tribes or castes to enroll in government secondary schools by promising a cash payment upon the passage of 10th standard exams.²⁸

Only India's newest state, Telangana, has made education tuition-free for all students through the end of secondary school. India's 29 States and 7 Union Territories have the ability to establish their own education policies, and in the absence of a constitutional or national statutory guarantee to tuition-free secondary education,²⁹ all but 5 States/UTs³⁰ have implemented targeted policies to disburse scholarships or in-kind materials with the goal of advancing equity in education to one or more of the following groups: girls, members of Scheduled Castes/Scheduled Tribes (SC/ST), Muslim communities, and low-income families.³¹ A number of these state-level schemes explicitly target students in secondary; however, an analysis of the Indian National Sample Survey (2014) shows that coverage of government schemes can vary dramatically among states:

- **While more than 50% of girls at government-funded lower-secondary schools in Chhattisgarh, Madhya Pradesh, and Tripura received scholarships, fewer than 10% of their counterparts in Assam, Meghalaya, and Tamil Nadu reported scholarship receipt.**³²

- At the upper-secondary level, levels of reported scholarship receipt are lower; in most states, fewer than 20% of girls received scholarships.³³

Expanding the scope of the Right to Education Act and joining the 122 countries that make the completion of secondary school tuition-free³⁴ would accelerate gender equality in outcomes and advance the inclusion of girls across all of India's diverse regions. Extension of the RTE should be paired with the coordinated expansion of complementary school-based entitlements that are currently restricted to students in primary school—such as the Midday Meal Scheme. This important nutritional program currently supplies all school children in grades 1-8 with a cooked meal at school with the aim of “enhancing enrollment, retention, attendance, and nutrition.”³⁵ Designed to reduce the cost of schooling, evidence suggests that these programs matter more for girls’ participation in school, relative to boys’,³⁶ and will be important to extend through the completion of upper-secondary.

In addition to school-based entitlements, numerous **social and economic policies have the power to promote or obstruct barriers to educational rights** outlined in the Constitution of India and the RTE Act. Implementing well-designed laws that govern children’s engagement in the labor market and the minimum age of marriage can be important ways to support education through the completion of secondary school, particularly among marginalized groups.

- The Child Labour (Prohibition and Regulation) Act and the associated Amendment Bill passed in 2016³⁷ prohibit the employment of all Indian children under 14—the age through which children are guaranteed free and compulsory primary education. However, many advocates³⁸ recommend removing an exception within the new law which makes child labor in “family or family enterprises” legal at any age,³⁹ as it limits protections available to many vulnerable children. After the passage of the amendment, Euphrates Gobina, UNICEF Chief of Education in India, released a statement asserting that “[u]nder the new Child Labour Act, **the more invisible forms of child labor and exploitation may go unseen and the most vulnerable and marginalized children may end up with irregular school attendance, lower levels of learning and therefore subsequent dropping out of school.**”⁴⁰
- The Prohibition of Child Marriage Act (2006) specifies that every child marriage that was solemnized before or after the passage of the 2006 Act is “voidable at the option of the contracting party who was a child at the time of the marriage.”⁴¹ **Child marriage creates significant barriers for the completion of girls’ education.**⁴² India has clear legislation that prohibits marriage of girls under 18 without making exceptions for parental consent or religious or customary law. Still, implementation of this act remains a challenge.

Recommendation 2: Establish a Responsible Body with Necessary Resources to Meet the Norms and Standards Outlined in the Right to Education (RTE) Act; Training of Teachers; Quality Enhancement

The RTE Act contains a number of progressive elements, including a ban on corporal punishment in schools and the prohibition of all forms of discrimination that prevent the pursuit of education.⁴³ However, despite its clear strengths, there is broad consensus around notable weaknesses of the Act. **In addition to critiques around quality and exclusion of children outside of the 6-14 age range, the Act is said to lack a clear mechanism for implementation and problem redress**⁴⁴ and as “there are multiple agencies involved with the RTE, there may be issues of accountability, duplication of effort, and possible misunderstanding of specific responsibilities where the act’s implementation and monitoring are concerned.”⁴⁵ Stakeholders call for a variety of approaches to address these challenges, including the streamlining and reorganization of the multiple government agencies responsible for the implementation of the RTE and the formation of decentralized built-in accountability mechanisms that involve local panchayats in meaningful ways.

Additionally, huge investments in infrastructure, administrative capacity, and human capital are required to truly implement the RTE Act,⁴⁶ including the explicit norms and standards related to quality in schools—such as pupil-to-teacher-ratios and separate toilets for boys and girls.⁴⁷ Many stakeholders assert that **absence of transparent, coordinated investments at the national and State/UT levels has eroded trust in the public educational system, and quality of facilities and student learning remains a major concern.**

- In 2010, shortly after the passage of the RTE, 50.7% of students in Standard 5 in government schools could read at a Standard 2 level, while only 42.2% could do so in 2014.⁴⁸
- Witnessing children who attend school but still struggle to read often leads parents to conclude that more expensive private schools are the only option,⁴⁹ although much of the modest learning gap between public and private students can be confidently attributed to factors other than school type.⁵⁰ However, the perception of the superiority of private school remains, and many in-country stakeholders assert that families and children are ashamed of being in public schools.

Sufficient funds and **coordinated administrative effort are required to address a persistent, large-scale barrier to the full realization of India's RTE Act: a dramatic shortage of qualified teachers** with the capacity to provide necessary support to first-generation learners, and the necessary administrative capacity to recruit, train, and monitor these instructors. This shortage negatively impacts teacher-to-student ratios, has led to reductions in already-low minimum training requirements,⁵¹ reliance on contract teachers, and ultimately compromises quality of instruction.⁵² At the primary level, UNESCO data asserts that **366.8 thousand teachers are needed in India today**, a level of demand exceeded only by Nigeria.⁵³ While this magnitude of need sets India apart globally, teacher shortages plague many low- and middle-countries that have taken steps to expand access to education in recent years, and India's RTE included provisions that anticipated a broad expansion in demand for education, which current resources would be unable to meet:

- Provision 23(2) of the RTE allowed that “Where a State does not have adequate institutions offering courses or training in teacher education, or teachers possessing minimum qualifications (...) are not available in sufficient numbers, the Central Government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as teacher.” Since 2012, **notifications granting relaxation of minimum qualifications have been granted to Bihar, Uttar Pradesh, Madhya Pradesh, and Manipur, among other states**,⁵⁴ yet dramatic teacher shortages persist.
- However, progress on this dimension of education quality has been slow, and Dr. Protiva Kundu of the Centre for Budget and Governance Accountability asserts that “among the existing teachers in government schools, **about 20 percent are untrained and the proportion of trained qualified teachers has been almost stagnant since last five years.**”

¹ Sperling, G.B., Winthrop, R., and Kwauk, C. (2014). *What Works for Girls' Education: Evidence for the World's Best Investment*. Brookings Institution Press, Washington, D.C.. Retrieved from <https://www.brookings.edu/book/what-works-in-girls-education-evidence-for-the-worlds-best-investment/>.

² UNESCO Institute of Statistics. (2016). Education dataset (1970-2014). Retrieved from: http://data.uis.unesco.org/Index.aspx?DataSetCode=EDULIT_DS on October 17 2016.

³ The Government of India. (2002). The Constitution (Eight-Sixth Amendment) Act. Retrieved from <http://indiacode.nic.in/coiweb/amend/amend86.htm>, on 10 October 2016; Ministry of Human Resource Development, Government of India (2016). Right to Education. Accessed at <http://mhrd.gov.in/rte>, on 10 October 2016.

⁴ Targeted provisions for girls made through the SSA include separate toilets, free textbooks for girls through elementary, recruitment of 50% women teachers. See more at: Ministry of Human Resource Development, Department of School Education & Literacy, Government of India. (2007). Sarva Shiksha Abhiyan; Programme for Universalization of Elementary Education. Retrieved from: http://ssa.nic.in/main_page, on 10 October, 2016; Ministry of Statistics and Programme Implementation, Government of India. (2014). Millennium Development Goals India Country Report 2014. Retrieved from: <http://www.in.undp.org/content/dam/india/docs/MDG%20-%20India%20Report%202014.pdf>, on 10 October 2016, p. 55.

⁵ National Portal of India. (2012). Right to Education Act. Accessed at <http://www.archive.india.gov.in/citizen/education.php?id=38> on 10 October 2016

⁶ Ministry of Human Resource Development, Government of India. (2014). Education for All 2015 National Review Report: India. Retrieved from <http://unesdoc.unesco.org/images/0022/002298/229873E.pdf> on October 15 2016, at Table 2.5.2.

⁷ Ministry of Human Resource Development, Government of India. (2014). Education for All 2015 National Review Report: India. Retrieved from <http://unesdoc.unesco.org/images/0022/002298/229873E.pdf> on October 15 2016, at iii; Centre for Equity Studies. (2014). India Exclusion Report 2013-14. New Delhi: www.indianet.nl/pdf/IndiaExclusionReport2013-2014.pdf, at 18.

⁸ Distance to school has been identified as a particularly important barrier to girls' education in India, where one recent study in Western Uttar Pradesh found that the most cited reason for girls' dropping out between primary and secondary was distance to school, in Siddhu, G. (2011). Who makes it to secondary school? Determinants of transition to secondary schools in rural India. *International Journal of Educational Development* 31(4).

Previous research has also documented this barrier in India: Sipahimalani, V. (1999). Education in the rural Indian household: The impact of household and school characteristics on gender differences. Working Paper 68, National Council of Applied Economic Research, New Delhi.

For further reviews of global research on this topic, see: Glick, P. (2008). What policies will reduce gender schooling gaps in developing countries: Evidence and interpretation. *World Development* 36(9); Sperling, G.B., Winthrop, R., and Kwauk, C. (2014). *What Works for Girls' Education: Evidence for the World's Best Investment*. Brookings Institution Press, Washington, D.C.. Retrieved from <https://www.brookings.edu/book/what-works-in-girls-education-evidence-for-the-worlds-best-investment/>, at 138-145.

⁹ Ministry of Human Resource Development, Government of India. (2014). Education for All 2015 National Review Report: India. Retrieved from <http://unesdoc.unesco.org/images/0022/002298/229873E.pdf> on October 15 2016, at iii; Centre for Equity Studies. (2014). India Exclusion Report 2013-14. New Delhi: www.indianet.nl/pdf/IndiaExclusionReport2013-2014.pdf, at Figure 2.5.3.

¹⁰ Per provisional 2013-14 data, dropout rates for Classes I-X were 46.7% for girls, and 48.1% for boys. Bureau of Planning, Monitoring & Statistics: Ministry of Human Resource Development: Government of India. (2014). Educational Statistics at a Glance. Retrieved from http://mhrd.gov.in/sites/upload_files/mhrd/files/statistics/EAG2014.pdf on October 15, 2016, at Table 10.

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- ¹¹ For example, see: Kundu, P. (2014). Major Dimensions of Inequalities in India: Education. Centre for Budget and Governance Accountability, New Delhi. Retrieved from: <http://csnbridsam.org/wp-content/uploads/2013/08/Education.pdf> on October 17, 2016; Ramachandran, V. (2015) "Can we fix the persisting crisis of learning?" in Annual Status of Education Report (Rural) 2014. Retrieved from http://img.asercentre.org/docs/Publications/ASER%20Reports/ASER%202014/fullaser2014mainreport_1.pdf, on October 17, 2016; Centre for Equity Studies. (2014). India Exclusion Report 2013-14. New Delhi: www.indianet.nl/pdf/IndiaExclusionReport2013-2014.pdf, at 44-75. Kumar, A.K.S. and Rustagi, P. (2010). Elementary Education in India: Progress, Setbacks, and Challenges. Oxfam India. Retrieved from <http://www.ihdindia.org/IHD-Oxfamworkingpaper-PDF/II.%20Elementary%20Education%20in%20India-Progress,%20Setbacks,%20and%20Challenges.pdf> on October 17, 2016.
- ¹² Rao, N., Sun, J., Wong, J., Weekes, B., Ip, P., Shaeffer, S., Young, M., Bray, M., Chen, E., and Lee, D. (2014). Early childhood development and cognitive development in developing countries. DFID Research for Development & EPPI-Centre. Retrieved from: <http://eppi.ioe.ac.uk/cms/Portals/0/PDF%20reviews%20and%20summaries/ECD%202014%20Rao%20report.pdf?ver=2014-10-02-145634-017> on October 17, 2016.
- ¹³ Ade, A., Gupta, S.S., Maliye, C., Deshmukh, P.R., Garg, D., and Garg, B.S. (2010). Effect of improvement of pre-school education through Anganwadi center on intelligence and development quotient of children. *Indian Journal of Pediatrics* 77, 541-546; Rao, N. (2010). Preschool quality and the development of children from economically disadvantaged families in India. *Early Education and Development* 21(2), 167-185; Hazarika, G., and Viren, V. (2010). The effect of early childhood developmental program attendance on future school enrollment and grade progression in rural north India. IZA Discussion Paper No. 5209. Retrieved from: <http://ftp.iza.org/dp5209.pdf> on October 17, 2016.
- ¹⁴ Perspectives from a range of in-country interviews. See also, Pillai, P. (2014). In Rural India, Asking What Helps Girls Stay in School. Submission to Education for Global Development: A blog about the power of investing in people. Retrieved from: <http://blogs.worldbank.org/education/rural-india-asking-what-helps-girls-stay-school> on October 17, 2016.
- ¹⁵ Data from 2012; WORLD Policy Analysis Center. Pre-Primary Education Database, 2015. Findings cited in: Richter L.M., Daelmans B., Lombardi J., Heymann J., Lopez Boo F., Behrman J.R., Lu C., Lucas J.E., Perez-Escamilla R., Dua T., Bhutta Z.A., Stenberg K., Gertler P., Darmstadt G.L., with the Paper 3 Working Group and the Lancet Early Childhood Development Series Steering Committee. (2016). Investing in the foundation of sustainable development: Pathways to scale up for early child development. *The Lancet Childhood Development Series*, Retrieved from: <http://www.thelancet.com/series/ECD2016> on October 17 2016.
- ¹⁶ When initiated in 1975, the program was focused on providing services to economically disadvantaged families. However, in 2001, the Indian Supreme Court ruled that the program be extended "to every child under the age of 6, all pregnant women and lactating mothers and all adolescent girls". Affidavit of K. Rajeswara Rao, Director, Government of India, Ministry of Women and Child Development, March 2007, People's Union for Civil Liberties v. Union of India and others, Writ Petition No. 196 of 2001, at par. [2]. Retrieved from <http://icds-wcd.nic.in/icds/affidviticds.htm> on October 17 2016.
- ¹⁷ Ministry of Women & Child Development, Government of India. (2009). Integrated Child Development Services (ICDS) Scheme. Retrieved from: <http://icds-wcd.nic.in/icds/> on October 17 2016.
- ¹⁸ For more, see consultation series from The Alliance for Rights to Early Childhood Development, a Delhi-based group comprised of experts, networks and activists: Alliance for Rights to ECD and Forum for Crèches & Childcare Services. (2013). *Consultation on Strengthening Legal Entitlements for Children Under Six: A Report*. New Delhi, at 1; Alliance for Rights to ECCD and National Law University Delhi Campus. (2014). Consultation on Development of a Code and Set of Laws for the Right to Early Childhood Development. New Delhi, at 14. On file with authors.

¹⁹ Child Development Bureau, Ministry of Women and Child Development & National Institute of Public Cooperation and Child Development, Government of India. (2013). Potential Good Practices: The ICDS Experience. Retrieved from <http://nipccd.nic.in/reports/pgp.pdf> on October 17 2016, at 16.

²⁰ Provisional data on children enrolled in balwadi or anganwadi, for more see: ASER Centre. (2015) Annual Status of Education Report (Rural) 2014. Retrieved from http://img.asercentre.org/docs/Publications/ASER%20Reports/ASER%202014/fullaser2014mainreport_1.pdf on October 17 2016, at 85.

²¹ Working Group for Children Under Six of the Right to Food Campaign and Jan Swasthya Abhiyan. (2012). Strategies for Children under Six: Update and Recommendations for the 12th Plan. Public Health Resource Network (PHRN), at 27 -29. On file with authors, to order copies contact Right To Food Campaign Secretariat and Public Health Resource Network; Alliance for Rights to ECD and Forum for Crèches & Childcare Services. (2013). *Consultation on Strengthening Legal Entitlements for Children Under Six: A Report*. New Delhi, at 1; Alliance for Rights to ECCD and National Law University Delhi Campus.(2014). Consultation on Development of a Code and Set of Laws for the Right to Early Childhood Development. New Delhi, at 14. On file with authors.

²² Articles 5.1.5 and 5.2 of National Early Childhood Care and Education (ECCE) Policy (2012). Retrieved from: http://icds-wcd.nic.in/schemes/ECCE/ecce_01102013_eng.pdf on October 17 2016.

²³ See for example, Alliance for Rights to ECD and Forum for Crèches & Childcare Services. (2013). *Consultation on Strengthening Legal Entitlements for Children Under Six: A Report*. New Delhi, at 1; Alliance for Rights to ECCD and National Law University Delhi Campus. (2014). Consultation on Development of a Code and Set of Laws for the Right to Early Childhood Development. New Delhi, at 14. On file with authors..

²⁴ Pratham Education Foundation. (2016). Pratham- Who, What & How. Retrieved from <http://www.pratham.org/about-us/about-pratham> on October 17 2016.

²⁵ Sperling, G.B., Winthrop, R., and Kwauk, C. (2014). *What Works for Girls' Education: Evidence for the World's Best Investment*. Brookings Institution Press, Washington, D.C.. Retrieved from <https://www.brookings.edu/book/what-works-in-girls-education-evidence-for-the-worlds-best-investment/>, at 138-145; Glick, P. (2008). What policies will reduce gender schooling gaps in developing countries: Evidence and interpretation. *World Development* 36(9); UNICEF. (2003) "The State of the World's Children 2004 - Girls, Education and Development". Retrieved from: http://www.unicef.org/publications/files/Eng_text.pdf on October 17 2016, at 23.

²⁶ Research on private school enrollment indicates a gender gap in investments in children's education. For example, see Maitra P., Pal S., Sharma A. (2011). Reforms, Growth and Persistence of Gender Gap: Recent Evidence from Private School Enrolment in India. *IZA Discussion Paper No. 6135*.

²⁷ Department of School Education & Literacy, Ministry of Human Resource Development, Government of India. (2016). National Means Cum-Merit Scholarship Scheme (NMMSS). Retrieved from: <http://mhrd.gov.in/nmms> on October 17 2016

²⁸ Department of School Education & Literacy, Ministry of Human Resource Development, Government of India. (2016). National Scheme of Incentives to Girls for Secondary Education. Retrieved from <http://mhrd.gov.in/incentives> on October 17 2016.

²⁹ Although there is an absence of a statutory guarantee to tuition-free secondary, in 2009 the Government of India launched the Rashtriya Madhyamik Shiksha Abhiyan (RMSA) scheme to enhance access to secondary through interventions focused on quality (e.g. in-service teacher training), equity (e.g. opening schools in areas with high concentrations of students from Scheduled Caste/Scheduled Tribes), etc. For further details on the scheme and its funding, see: Department of School Education & Literacy, Ministry of Human Resource Development, Government of India. (2016). Rashtriya Madhyamik Shiksha Abhiyan (RMSA). Retrieved from <http://mhrd.gov.in/rmsa> on October 17 2016; Singh, G. and Kundu, P.(2015). Inequalities in

secondary education: A study of Rashtriya Madhyamik Shiksha Abhiyan (RMSA). Centre for Budget and Governance Accountability.

³⁰ Among states for which information is available, only Arunchal Pradesh, Goa, Meghalaya, Odisha, Chandigarh have only implemented central government-sponsored schemes. See more at: Statistics Division, Bureau of Planning, Monitoring and Statistics, Ministry of Human resource Development, Government of India. (2014). Selected Information on School Education. Retrieved from http://mhrd.gov.in/sites/upload_files/mhrd/files/statistics/SISH201112.pdf on October 17 2016, at Statement –VIII.

³¹ Among the ten States/UTs with the lowest per capita GDP for the last ten years, only Odisha has not taken steps to supplement Central Government schemes. Two illustrative examples of schemes undertaken in lower-resource States/UTs are 1) Bihar's Cycle Scheme for girls- initiated in 2006 to address the gender gap in enrollment in secondary education by providing girls who continued beyond upper primary (grade 8) with a bicycle. Evaluation has shown that the program increased the probability of a girl being enrolled or completing grade 9 by 30%, and narrowed the gender disparity in school enrollment by 40% in: Muralidharan K. and Prakesh, N. (2013). Cycling to school: Increasing secondary school enrollment for girls in India. National Bureau of Economic Research Working Paper No. 19305. Retrieved from: <http://www.nber.org/papers/w19305> on October 17 2016.

And 2) In Rajasthan, the Gargi Puraskar aims to encourage girls' secondary education by providing an annual award of Rs. 2,000 to girls who earn 75% or higher on their secondary school board exam at grade 10, and continue on to upper secondary (grades 11-12). Free text books are also distributed to SC/ST and low-income students in upper- and lower-secondary (grades 9-12) and all low-income girls from grades 1-12. For more see: Statistics Division, Bureau of Planning, Monitoring and Statistics, Ministry of Human resource Development, Government of India. (2014). Selected Information on School Education. Retrieved from http://mhrd.gov.in/sites/upload_files/mhrd/files/statistics/SISH201112.pdf on October 17 2016, at Statement –VIII.

³² Findings come from original analysis undertaken as part of this initiative. Data available at: Ministry of Statistics and Programme Implementation, Government of India. (2014). Indian National Sample Survey (NSS) Round 71. Retrieved from: <http://mail.mospi.gov.in/index.php/catalog/160>.

³³ Findings come from original analysis undertaken as part of this initiative. Data available at: Ministry of Statistics and Programme Implementation, Government of India. (2014). Indian National Sample Survey (NSS) Round 71. Retrieved from: <http://mail.mospi.gov.in/index.php/catalog/160>.

³⁴ WORLD Policy Analysis Center. (2014). Education Database. Available at: <http://www.worldpolicycenter.org/topics/education/policies>.

³⁵ Ministry of Human Resource Development; Department of School Education & Literacy, Government of India. About the Mid Day Meal Scheme. <http://mdm.nic.in/> Accessed on 18 August 2016.

³⁶ Afridi, F. (2010). The Impact of School Meals on School Participation: Evidence from Rural India. *Discussion Papers in Economics*, Indian Statistical Institute, Delhi Planning Unit; Dreze, Jean and Geeta Gandhi Kingdon. (2000) School participation in rural India. *Review of Development Economics*, 5(1), pp. 1-33.

³⁷ The Child Labour (Prohibition and Regulation) Amendment Act, No 36 of 2016. Retrieved from: [http://labour.nic.in/sites/default/files/THE%20CHILD%20LABOUR%20\(PROHIBITION%20AND%20REGULATION\)%20AMENDMENT%20ACT,%202016_0.pdf](http://labour.nic.in/sites/default/files/THE%20CHILD%20LABOUR%20(PROHIBITION%20AND%20REGULATION)%20AMENDMENT%20ACT,%202016_0.pdf) on October 17 2016.
<http://timesofindia.indiatimes.com/india/Now-employing-child-below-14-can-land-you-in-jail-for-2-years/articleshow/53401309.cms>
<http://www.thehindu.com/opinion/columns/ruchira-gupta-child-labour-prohibition-and-regulation-amendment-act-2016-a-law-that-allows-child-labour/article8964940.ece>

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- ³⁸ See for example, Gupta, R. (August 2016). A law that allows child labour. *The Hindu*. Retrieved from <http://www.thehindu.com/opinion/columns/ruchira-gupta-child-labour-prohibition-and-regulation-amendment-act-2016-a-law-that-allows-child-labour/article8964940.ece> on August 19 2016.
- ³⁹ Article 5 of The Child Labour (Prohibition and Regulation) Amendment Act, No 36 of 2016. Retrieved from: [http://labour.nic.in/sites/default/files/THE%20CHILD%20LABOUR%20\(PROHIBITION%20AND%20REGULATION\)%20AMENDMENT%20ACT,%202016_0.pdf](http://labour.nic.in/sites/default/files/THE%20CHILD%20LABOUR%20(PROHIBITION%20AND%20REGULATION)%20AMENDMENT%20ACT,%202016_0.pdf) on October 17 2016.
- ⁴⁰ UNICEF India. (July 2016). Statement on the amended Child Labour Bill. Press Release retrieved from <http://unicef.in/PressReleases/415/UNICEF-India-statement-on-the-amended-Child-Labour-Bill> on October 17 2016.
- ⁴¹ Child marriages are voidable within two years of obtaining the age of majority. Article 3 of Prohibition of Child Marriage Act, 2006. Retrieved from: <http://www.hsph.harvard.edu/population/trafficking/india.childmar.07.pdf>
- ⁴² UNFPA. (2012). Marrying too young: End child marriage. Retrieved from: <http://www.unfpa.org/end-child-marriage-on-October-17>, 2016; Lloyd, C.B. and Mensch, B.S. (2008). Marriage and Childbirth as Factors in Dropping out of School: An Analysis of DHS Data from Sub-Saharan Africa. *Population Studies* 62(1), 1–13; Tuwor, T. and Sossou, M.A. (2008). Gender Discrimination and Education in West Africa: Strategies for Maintaining Girls in School. *International Journal of Inclusive Education* 12(4), 363–379; Jensen, R. and Thornton R. (2003). Early Female Marriage in the Developing World. *Gender and Development* 11(2), 9–19.; Mensch, B., (2005). The Transition to Marriage,” in C.B. Lloyd, ed., *Growing Up Global: The Changing Transitions to Adulthood in Developing Countries*, Committee on Population, Board on Children, Youth, and Families, Division of Behavioral and Social Sciences and Education, National Research Council, and Institute of Medicine (Washington, D.C.: National Academies Press), 416–505.; Jain, S. and Kurz, K. (2007). New Insights on Preventing Child Marriage: A Global Analysis of Factors and Programs. Report prepared by the International Center for Research on Women for the United States Agency for International Development.
- ⁴³ Articles 8(c) and 17 of The Right of Children to Free and Compulsory Education Act (2009) prohibit discrimination and corporal punishment in education, respectively. Retrieved from http://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/rte.pdf, on March 20, 2016.
- ⁴⁴ Vaid, D.(2015). Monitoring education policy in India. In L. Tillin, R. Deshpande, and K.K. Kailash (Ed.) *Politics of Welfare: Comparisons across Indian states* (pp. 200-224). New Delhi, Oxford University Press; Centre for Equity Studies. (2014). *India Exclusion Report 2013-14*. New Delhi: www.indianet.nl/pdf/IndiaExclusionReport2013-2014.pdf, at 54. Many of these critiques accompanied the 93rd amendment, which preceded the Right to Education Act, see more at: Sripathi, V. and Thiruvengadam, A.K. (2004). India: Constitutional amendment making the right to education a fundamental right. *International Journal of Constitutional Law* 2(1), 148-158.
- ⁴⁵ Vaid, D.(2015). Monitoring education policy in India. In L. Tillin, R. Deshpande, and K.K. Kailash (Ed.) *Politics of Welfare: Comparisons across Indian states* (pp. 200-224). New Delhi, Oxford University Press, at 211.
- ⁴⁶ Centre for Budget and Governance Accountability. (2011) *Reclaiming public provisioning: Priorities for the 12th five year plan*. New Delhi. Retrieved from: <http://www.cbgaIndia.org/wp-content/uploads/2016/03/Reclaiming-Public-Provisioning-Priorities-for-th-12th-Five-Year-Plan-1.pdf> on June 2016; Centre for Equity Studies. (2014). *India Exclusion Report 2013-14*. New Delhi: www.indianet.nl/pdf/IndiaExclusionReport2013-2014.pdf, at 54.
- ⁴⁷ Schedule of The Right of Children to Free and Compulsory Education Act (2009). Retrieved from: http://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/RTI1.pdf on October 17 2016.
- ⁴⁸ Wadhwa, W. (2015) “Government vs. private schools: Have things changed?” *Annual Status of Education Report (Rural) 2014*. Retrieved from http://img.asercentre.org/docs/Publications/ASER%20Reports/ASER%202014/fullaser2014mainreport_1.pdf, on October 17, 2016, at 19.

⁴⁹ Enrollment in private schools has risen from 18.7% to 30.8% between 2006 and 2014. Wadhwa, W. (2015) "Government vs. private schools: Have things changed?" *Annual Status of Education Report (Rural) 2014*. Retrieved from http://img.asercentre.org/docs/Publications/ASER%20Reports/ASER%202014/fullaser2014mainreport_1.pdf, on October 17, 2016, at 19.

⁵⁰ Wadhwa, W. (2015) "Government vs. private schools: Have things changed?" *Annual Status of Education Report (Rural) 2014*. Retrieved from http://img.asercentre.org/docs/Publications/ASER%20Reports/ASER%202014/fullaser2014mainreport_1.pdf, on October 17, 2016, at 19-20.

⁵¹ Most countries (118) require teachers at the upper-primary or lower-secondary level to have completed a Bachelor's degree or more. Globally, India is one of 46 countries that only require teachers at the upper-primary or lower-secondary level to have completed secondary education. WORLD Policy Analysis Center. (2014). Education Database. Available at: <http://www.worldpolicycenter.org/topics/education/policies>.

⁵² Chandra, M. (2015). The implications of contract teaching in India: A review. *Policy Futures in Education* 13(2), 247-259.

⁵³ UNESCO. (2014). eAtlas of Teachers. Available at: http://www.uis.unesco.org/Education/Pages/global_teacher_demand_2012.aspx, accessed on August 26 2016.

⁵⁴ Department of School Education & Literacy, Ministry of Human Resource Development, Government of India. (2016). RTE Rules/Guidelines/Notifications. Retrieved from http://mhrd.gov.in/rte_rules on August 19, 2016.