The Right to Education (RTE) Act came into force in the year 2009, guaranteeing free and compulsory elementary education to all children between the age of 6 to 14 years. It made education a fundamental right for all children, originating from the Article 21A of the Indian Constitution which was inserted in 2002 to read “the state shall provide free and compulsory education to all children of the age 6 to 14 years in such a way as the state may, by law, determine”. It is further in conjunction with the UNCRC (The United Nations Convention on the Rights of the Child), ratified by India in the year. Having a law and it being a legal guarantee does not ensure its implementation.

Oxfam India (OIN) and its partners, have working towards ensuring the effective implementation of the RTE Act from the start of its execution across the country. From formulation of state rules to ensuring that these are notified at the state level, they have been at the forefront of the process. In addition to this, they have been part of a national network to bring in larger policy reforms through a call for greater accountability of state and by building a constant pressure for an equitable Right to Education for all.

The Act provided a clear time bound framework for implementation in all schools all the country. There were two main time lines, that all schools comply with the provision of the Act by the end of three years i.e. 2013, and having trained teachers in all schools by the year 2015. The first deadline was grossly missed, with only 8% of schools complying with the entirety of these norms. Such a huge failure indicates a systemic failure and lack of accountability at various levels.

It is therefore in this context, Oxfam India is supporting partner JOSH towards undertaking the process of grievance redress of the RTE Act in the city of Delhi. Understanding and working on the available mechanism of grievance redress or the lack of it forms the core of their work. This learning note intends to capture the experiences, processes and lessons learned in using the available legal provisions for community empowerment and for state accountability, to support better implementation of the Right to Education Act.

A common refrain in India is that our statutory welfare rights suffer from weak implementation, monitoring and enforcement (Aiyar 2012 and 2013; Panagariya 2013). Despite this enough attention is not given to grievance redress mechanism in the enforcement of these rights. Coupled with this is the limited understanding on the process and important of grievance redress not only in the communities, who are direct beneficiaries of these schemes but even among the civil society organisations, supporting communities access these rights.

What is grievance redress?

The Government acknowledges that one of the biggest concerns it is facing is, how to make public delivery systems more citizen centric. It further states that an essential prerequisite for this, is to have a robust grievance redress and monitoring mechanism, especially in Government agencies that have a large public interface. Since June 2007, they are making conscious efforts to strengthen this system. A grievance is defined as the ‘Expression of dissatisfaction made to an organisation related to its products, services and/or process/es where a response or resolution is explicitly or implicitly expected’.

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1 Year 4 Stocktaking Report of RTE Forum, 2013–14

2 RTE Grievance Redress in Karnataka, Economic and Political Weekly

Further grievance redress mechanism is locally based, formalized way to accept, assess, and resolve community complaints and feedback. It helps bring in accountability and transparency in the provision of a service, thereby improving the delivery of the services. It also helps initiate any systemic changes needed in the implementation of a service.

While usually a formalized system of grievance redress exists, this is rarely used. Even when used, the process is cumbersome and ambiguous, with no clear point of accountability. The government has openly recognized that ‘there is no doubt that grievances continue to arise because of a high systemic tolerance for delay, poor work quality and non-accountability in every day performance of functions’. But this has not necessarily translated into creating an accountability mandate with clear responsibilities needed at multiple levels.

GRIEVANCE REDRESS IN THE EDUCATION SECTOR

There are many redress mechanisms available in the education sector, especially with regards to elementary education. Education departments across the states have formal mechanism like toll free helplines, complaint boxes available at schools, appointment of a designated officer and even websites providing for redress of complaints. In addition to this, Right to Public Services legislations and the proposed Central Grievance Redress Bill also provide space for grievances of education. The RTE Act has further laid out a framework of implementation for grievance redress mechanism in education.

Accountability in public governance mainly takes three forms, administrative, legal and political. In addition to these individual forms of accountability, social accountability, which entails monitoring, exposing wrongdoing, etc. (Joshi 2008) through collective action, is also gaining ground enforcing social welfare delivery. The grievance redress system under RTE Act provides space for all of these different forms of accountabilities. It primarily assumes the shape of administrative accountability which by nature is hierarchical, managerial and continuous. The grievance redress system in education has been weak. This is mainly because of both the system inertia and the lack of information and interest at the community level.

5  RTE Grievance Redress in Karnataka, Economic and Political Weekly

Communities did not feel the need to take raise their grievance with regard to education in the limited formal mechanisms available. This was mainly because they did not view education as a fundamental right of every child and any hindrance in its process, as a violation.

Another important point to highlight is that the education department is not the only provider of education in a State and even within schools run by the education department, a large number of other departments may be involved in delivering associated services. Therefore, linkages with other departments like Tribal Welfare, Social Justice and Empowerment, Women and Child Development, Health, Water and Sanitation, Public Works and Panchayati Raj etc. need to be built for effective redress.

FRAMEWORK FOR GRIEVANCE REDRESS UNDER RTE ACT

The RTE Act provides a broad outline for a redress mechanism including the local authorities and Quasi Judiciary bodies/Human rights institutions. As, Sarva Shiksha Abhiyan (SSA) is responsible for the implementation of the Act, its framework for implementation, revised in context of the RTE Act states–

‘The RTE Act has made local authorities the grievance redressal agencies and the SCPCRs (State Commissions for Protection of Child Rights) the appellate bodies at the State level. In this context it is necessary to establish the modalities through which violations can be dealt with. A well-defined institutional mechanism for grievance redressal involves a system of registering, investigating and responding within a well-appointed time frame. This will have to be done along with the implementation agency which is charged with the actual redressal of the grievance by ensuring that the right under consideration is actually restored.’

The Local Authority (LA) has the primary role in the process of grievance redress as per the RTE Act at the community and school level.

The National Commission for Protection of Child Rights (NCPCR) and the State Commissions for Protection of Child Rights (SCPCRs) play the role of ombudsmen in addressing complaints regarding implementation of the RTE Act. Commission for Protection of Child

6  Developing Grievance Redress Mechanisms for RTE, Discussion note by NAC Working Group on RTE
Rights Act, 2005 gives NCPCR and the SCPCRs the status of statutory structures. A unique feature of this mechanism is that these structures are independent of the implementing agency i.e. the Ministry of Human Resources Development (MHRD). However, they come under the jurisdiction of Women and Child Development Ministry. In states that do not have an SCPCR, the state government has to assist in setting up of a Right to Education Protection Authority (REPA) as per the provisions of RTE.

Section 31 of the Right to Education Act entrusts the National Commission for Protection of Child Rights with the role of monitoring the RTE Act. Specifically, the functions of NCPCR are to –

- Examine or review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation;
- Inquire into complaints relating to child’s right to free and compulsory education; and
- Take necessary steps as provided under sections 15 and 24 of the said Commissions for Protection of Child Rights Act.

In addition to the above responsibilities, the commission also has the power to summon and enforce attendance. It can also requisition any public records and if needed approach the Supreme Court or High Court. Apart from this, the NCPCR has a RTE Division specifically to look at the implementation of the RTE Act.

**PROCESS OF FILING A GRIEVANCE/COMPLAINT**

As per the Act (2009), a written complaint can be made by any person who has a grievance with regard to the implementation of the Act to the Local Authority (LA) within its jurisdiction. The complaint will be addressed within a period of 3 months by the LA after it has given reasonable opportunity of being heard to the parties concerned. In case the person is not satisfied by the decision taken by the LA, an appeal in that case can be made to the SCPCR or REPA or any other authority constituted by the appropriate government where the SCPCR has not been constituted. They would then need to initiate action on the appeal.

**CURRENT STATUS OF THE GRIEVANCE REDRESS**

One of the biggest concerns in the implementation of RTE Act is the lack of proper redress of complaints filed by both the LA and the Commissions. From issues ranging from lack of autonomy to shortage of staff, the track record of addressing complaints has been slow and inadequate. According to the RTE Status Report of Year 4, as of March 2014, 20 States have SCPCRs and 10 States have REPAs. In places with REPAs, the appointment of fully fledged SCPCRs is taking an inordinate time. Where they exist often as mentioned, they lack the financial and human resource capacity commensurate with the scale of the problems.

A study conducted by JOSH in Delhi titled ‘Status of Implementation of the Right of Children to Free and Compulsory Education Act, 2009: The Delhi Story 2012-13’, had found that a large percentage of parents and community members have never complained or registered a grievance. The reasons for which are many – lack of information of the different provisions, humiliation by teachers and school authorities while trying to approach them with some concerns, to quote a few. Also, it was found that fear of children being reprimanded as a response also held back parents from putting forth their complaints.

Therefore, the grievance redressal mechanism is considered to be quite weak, with the National and State Commission for Protection of Child Rights being merely advisory bodies with no powers to take action against those who violate provisions under the Act. This is a major criticism of the grievance redressal mechanism under the RTE.

**STRENGTHENING GRIEVANCE REDRESSAL AND RTI**

Joint Operation for Social Help – JOSH was formed in the year 2006, beginning its work in the resettlement colonies of East Delhi, Trilokpuri and Kalyanpuri, where majority of the population belongs to the Dalit and minority communities. JOSH has been a crucial part of the campaign for Right to Information Act (RTI). Education is one of their major focus areas, specifically on transparency and accountability in the education system.

**ABOUT THE MODEL**

JOSH works with the youth as well as the larger community, spreading awareness on the issue of
education and encouraging them to file Right to Information (RTI)7 applications in schools, if needed, to avail their rights. They engage with Local Councillors and MLA’s as well as Government departments like Public Works Department, Delhi Jal Board, and Municipal Corporation of Delhi while working on the issue of RTE.

JOSH conducts a community theatre festival called Aaina aimed at creating awareness on RTE and other social issues. As a process of capacity building of community for monitoring and implementation of RTE, they set up information camps, organise rallies with students and youth of the community on the issue of RTE and conduct street plays and songs on education and RTE to reach out to the larger community. The outreach activities conducted by JOSH are followed up by community meetings held in different blocks of the project area. These meetings are conducted at regular intervals to discuss and address the complaints arising from the schools in the area. These meetings basically aim at engaging with the parents as well as other community members on the issue of education and also to encourage them to take ownership of the schools.

JOSH encourages community members to file RTI applications related to the delivery of the education system. Having spoken to some of the community people in Trilokpuri, it was found that many of the parents in the community have filed RTI applications with the help of JOSH on various issues in the school where their children were studying and have now gained the confidence to do so on their own. Though JOSH assists them with all the paper work that is needed for filing a RTI application, they also aim at making parents take charge and stand up for their children’s right to education. Examples of some of the issues which the parents reported to have addressed by filing RTI applications are – availing the benefits of scholarships for children, obtaining the list of members of the School Management Committee (SMC) members, provision for proper seating arrangements in the school, etc.

Therefore, JOSH’s core strategy is to use available legal provisions for empowerment of communities and to bring in accountability in the education system, to support better implementation of the Right to Education Act.

7 Under the Right to Information Act, 2005, an individual can request information within in a stipulated time period of 30 days from any public authority with some exemptions. It seeks to promote transparency and accountability in the functioning of the state.

A FEW SUCCESSES SO FAR HAVE BEEN

In the year 2013-14, JOSH was successful at mobilizing the community for filing of grievances and RTI. A total of 226 grievances and 38 RTI applications were filed during this period. The complaints were majorly regarding challenges faced by parents during the admission process, non-availability of books in school on time, poor quality of mid-day meal served in schools, poor or lack of proper infrastructure, lack of teachers and poor quality of education in the schools, all of which are mandated as per the RTE Act.

JOSH had even carried out a signature campaign to seek an effective grievance redressal mechanism in place for addressing the issues of violations. Through this campaign they had reached out to the community and received 3000 signed forms, which were collected and sent to the Education Minister and Chief Minister of Delhi.

A National Consultation on Grievance Redress in RTE, was organised to bring greater visibility and attention to grievance redress system at the national level. During the consultation, the current status of grievance redressal mechanism in education, administrative redress, role of State Commission for Protection of Child Rights (SCPCR) and National Commission for Protection of Child Rights (NCPCR) were discussed along with experiences and practices from the ground.

Another significant achievement is a public hearing (Jan Sunwai) was organised in collaboration with NCPCR on the RTE. It was the first public hearing in Delhi on RTE conducted by NCPCR. The public hearing was conducted in the resettlement colony of Trilokpuri and Kalyanpuri which was attended by about 2000 people. As part of the hearing, more than 809 complaints were filed with the Commission and around 30 sample cases were heard during the hearing.

In addition to this, a Jan Manch (People’s Forum) was organised during the Delhi Corporation elections in March 2012. JOSH mobilized the community to facilitate a public interaction session on the issue of education between the contesting candidates of major political parties and the community members. The contesting candidates were presented with a charter of demands on education, which prepared by the community members themselves. The candidates were asked to respond to these demands and further requested to commit addressing the problems concerning delivering
of education in government schools. This meeting as part of advocacy with elected representatives on education.

**CHALLENGES**

The challenges faced by JOSH in the process of ensuring a proper system of grievance redress under RTE Act can be classified into three main categories—systemic, implementation and accountability. While there is a system of grievance redress, a clear matrix with defined roles and responsibilities with time lines at every level is missing. This made it quite difficult for JOSH to work, as there is no clear line of ownership. They have to approach various officials at different levels for making a complaint. Sometimes, the officials do not even acknowledge the complaint saying it does not come under their purview. This lack of clearly defined complaint flow mechanism makes it difficult to follow up and seek redress of complaints filed. Moreover, the first line of redress the local authority hardly has a role to play at the local level. They lack an understanding of the system of grievance redress itself. It has been process of learning by action for JOSH in overcoming the challenges faced.

**OVERALL LEARNING**

JOSH has used the approach of community mobilisation and empowerment to address the issue of grievance redressal under RTE. While the RTE Act guarantees education as a right, communities and children need support to demand that right. JOSH’s experience demonstrates that mere awareness of the Act and its provision is not enough. The community also needs to be enabled to demand the implementation of the same, and most importantly, they need to be informed of the mechanisms in place to make such demands. JOSH has supported the community with the required information about where to make a complain, complaint submission procedures and providing handholding support towards paper work etc. This has also help enhance people’s confidence in using the available spaces for addressing their issues.

Further, in a scenario where the redressal mechanism is complex, unclear (for instance NCPCR/SCPCR having no authority to take action), and inaccessible for many (not knowing who the appropriate authority is, not having access to such offices, etc), using another legal mechanism like the RTI, has worked successfully. This has been quite effective, with parents encouraged to file RTI applications with respect to issues in the schools of their children to ensure greater transparency.

Moreover, for a transparent and effective grievance redressal mechanism in the education system, community needs to take ownership of the process and have the needed capacity to ensure its implementation. To ensure this ownership, a mix of complementary approaches were found to be effective. This included community engagement (in awareness, planning, and action), facilitating debates and consultations based on quality research, connecting authorities who implement laws (NCPCR) with ground issues with, and seeking accountability from people’s representatives. JOSH encourages parents to file RTI applications on their own, acting only as facilitators in the process.

Therefore, the important learning from this model is that the best way of ensuring that grievances are redressed is to make the community take charge of the situation and stand up for their rights. The community needs to be empowered to use the available resources and mechanisms in place to put forward their demands and grievances and ensure that they are addressed. This in turn is the foundation of a transparent and accountable system where the direct stakeholders are not just helpless beneficiaries of provisions, but empowered participant in the implementation of the Act, ensuring the rightful delivery of the provisions in place.

**CONCLUSION AND WAY FORWARD**

As seen from Oxfam India’s partner JOSH’s experience on the ground, there a number of challenges in the implementation of the grievance redress mechanism of the RTE Act. Unless proactive action is taken to remedy this at the earliest, the purpose of having such a system in place will be defeated. This affects not only the implementation of the Act but it most importantly would cause a major setback for the success of the Act. Some of the steps to be undertaken to address the issues in the process of grievance redress are—First and foremost, is to create an enabling environment by ensuring that the community (including children) and other stakeholders are aware and understand the relevance of having such a system in place. Information campaigns can be undertaken at both community level and school level explaining the process of grievance redress in the RTE Act. SMCs can be given the primary
responsibility of ensuring that the information on GR is easily available and readily accessible. Civil society, educationist, activist, lawyers and media have also an important role to play, by taking forward the information and bringing to light any violation into the public domain.

Accountable and transparent institutions-The Local Authority and the Commission/statutory bodies need to be more accountable and transparent in their functioning. They should be aware on what’s happening on the ground and the status of the implementation of the Act. Regular visits, interaction and discussions with children, community and teachers need to form the core of their responsibilities. In addition, there needs to be a clear system of functioning and responsibility among these institutions. Currently, there is an ambiguity in the line of responsibility at both National and State level. This has been addressed immediately, so that it does not deter an individual from filing a complaint, which is a reality today.

Adequate resource availability- For the effective functioning of the above authorities and for them to be able to undertake the responsibility expected from them, adequate resources need to be available with them. It is not possible for them to take up the process of grievance redress mechanism with limited or negligible budgets.

In addition to the above, there needs to be a systemic reform in the functioning of the education system itself. Grievance redress mechanism is just one aspect of it. Lastly, the unaddressed complaints, need to be taken up immediately so that there is confidence and trust in the relevance on these institutions for taking up the issue of ensuring quality education for all children of the country.

REFERENCES

- RTE Act, 2009
- Status of Implementation of the Right of Children to Free and Compulsory Education Act, 2009: The Delhi Story 2012-13
- Annual Report, 2011-12, JOSH
- Annual Project Report, 2013-14, JOSH
- Notes taken from interview with JOSH
- Right to Free and Compulsory Education, Delivering the promises of the Law, Oxfam India Policy Brief, No 7, July 2013
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