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Denying an Education to Indias Marginalized

A primary school in Sonbhadra district, Uttar Pradesh. The schools 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. 2014 Yogesh Aggarwal/ Human Rights Watch

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 governments 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.

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 Indias 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 childs 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 Childrens 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 governments 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 childrens 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 childrens 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 governments 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 states 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 school principal told Human Rights Watch that the tribal children were a big problem:

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 dont 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 Priyas 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, its 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 dont 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.

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:

Not surprisingly, children who work are less likely to go to school than those who do not. According to UNICEF, India has the worlds 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 governments 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 dont 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 acts provisions are followed and childrens 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 Indias 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 acts 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 commissions 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.

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.

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 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]

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]

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]

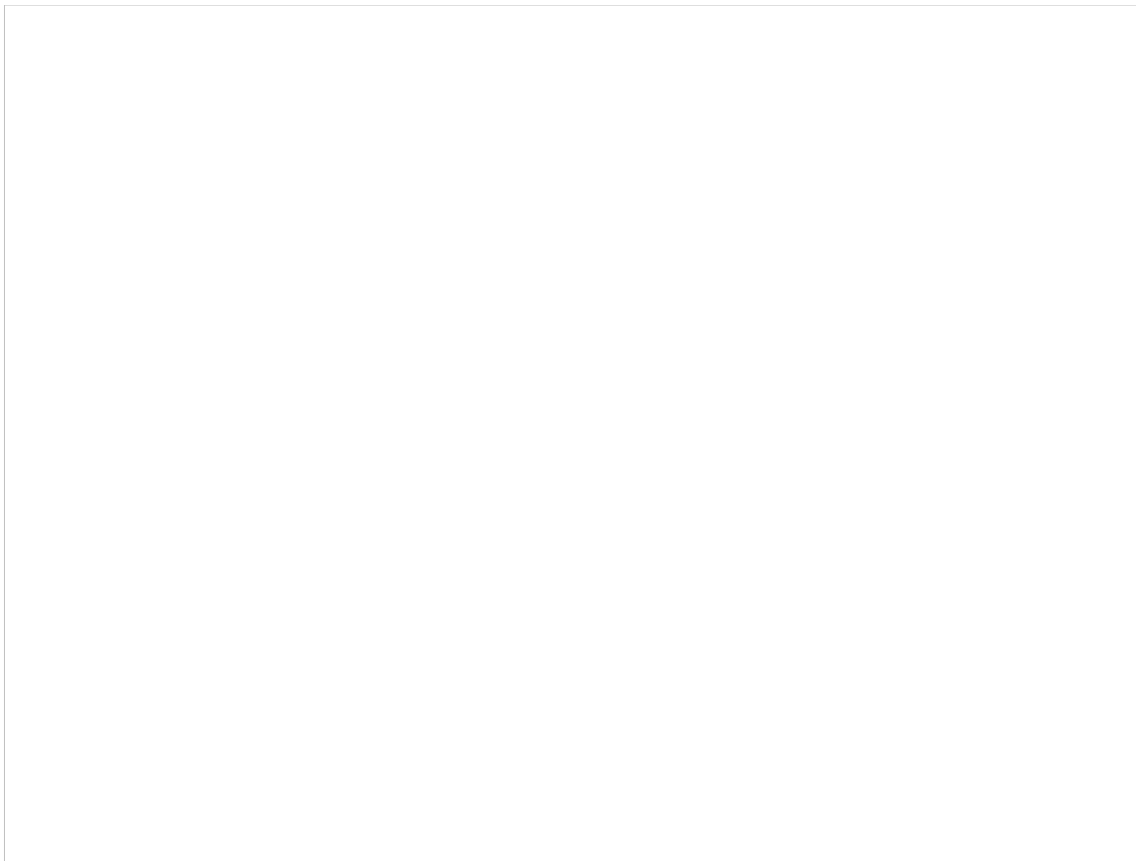
During the eleventh five-year plan (2007-2012), only 80 percent of the allocated funds were spent.^[17] There are huge state-wide variations in utilization of cooking cost allocations and government-supplied food grains.^[18]

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



[Click to expand Image](#)

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, less than 10 percent of Indias 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 childrens 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 countrys most vulnerable and marginalized communities.

Indian education specialists have criticized the governments 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]

The Right to Education Act seeks major improvements in Indias 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]

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]

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]

International law prohibits discrimination on the basis of religion, ethnicity, social origin, or other status.^[39] Education should foster development of respect for a childs 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 childs education, or to be harmful to the childs 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]

Indias 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 Indias 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]

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.

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 Peoples 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 governments 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]

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 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:

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.

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]

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:

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

Activists from a local nongovernmental organization, Peoples 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]

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

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]

Discriminatory behavior by teachers and children in a government primary school has led most Dalit children from Kamtachak village in Bihars 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 teachers scolding:

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 teachers legs and clean the teachers toilet:

The teacher belonged to a higher caste and only students from the Musahar community were asked to massage his legs. Nareshs 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:

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:

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 Rajeshs mother: It is because of the fear of the Yadavs, we came here. We dont have any fear here. There, the Yadavs could enter any Dalits house at any time in the night, beat anyone up.^[89]

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:

The move interrupted Rajeshs 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.

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.

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:

Madhus 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:

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

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 collector two years ago when her classmates in Gaya city in Bihar used the term disparagingly. She told Human Rights Watch:

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

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

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:

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.

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



[Click to expand Image](#)

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

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

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

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:

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.

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.

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 Indias 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]

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 Bajardiha 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 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 countrys diversity, they can alienate children of those communities from the wider society.^[118]

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:

Another boy, Javed, from the same school said:

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 dont play with each other, theres hardly any interaction between us.^[121]

Sahir said the teachers were not respectful of their parents:

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:

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 schools extracurricular programs:

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

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 children^[128] 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 Indias 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 Indias 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 need to develop and enforce protocols to monitor not merely childrens 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.

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

commissions 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]



[Click to expand Image](#)

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 departments 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.

Childrens 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 dont 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]

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 Councils 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]

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.

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 governments 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 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]

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, 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 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:

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:

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:

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:

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:

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.



[Click to expand Image](#)

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. 2013 Jayshree Bajoria/Human Rights Watch

When we met 11-year-old Veena, she was working in a groundnut field. Veenas 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 husbands home, Veenas 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:

Veenas 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:

Veenas 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.

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.

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 its 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:

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, often there is pressure from the community and the local officials to maintain silence. Shyams father said:

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 childrens 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]

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

Ajays 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.

Thirteen-year-old Shaheen spends most of her day engaged in the familys traditional occupation of sari weaving and handiwork. A few years ago Shaheen and several child workers from Bajardihaan, 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:

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 childrens 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:

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.

Shaheens 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 governments own admission, state-level monitoring is nonexistent in all but a few states.[\[176\]](#)



[Click to expand Image](#)

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, 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:

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:

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.[\[180\]](#)

According to the Right to Education Act, it is the responsibility of local authorities to ensure admission of children from migrant families.[\[181\]](#) The governments 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 Crches, 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 childrens 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.

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.[\[185\]](#)

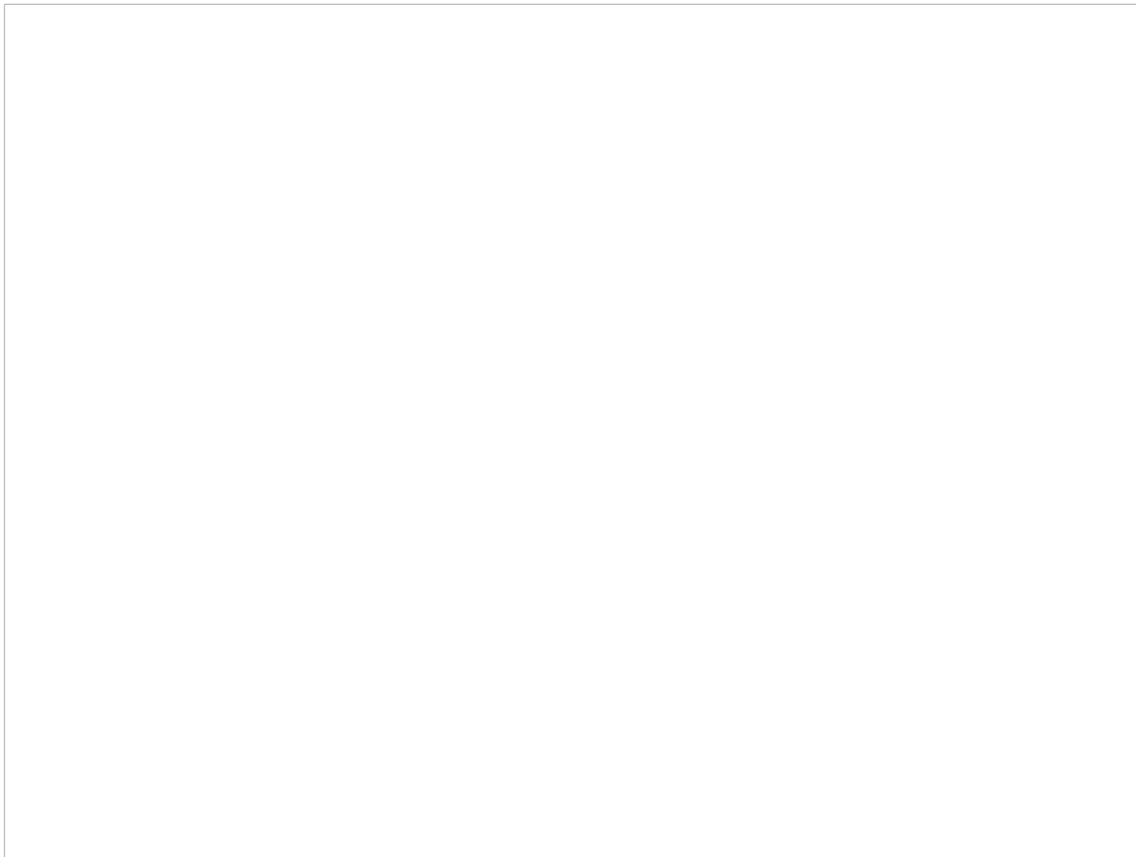
The school management committees (SMCs) or the relevant local government authority is supposed to make arrangements for bridge courses in existing schools wherever possible. If a school has insufficient space or teachers, separate space and teachers are to be provided.[\[186\]](#) In practice, however, 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:

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:

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:



[Click to expand Image](#)

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

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 Crches 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:

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:

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.

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:

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

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 acts 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, 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. [\[197\]](#)

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? [\[198\]](#)

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 childrens 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 villages 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 dont do this, I wont 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 dont 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 sons 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 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 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 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 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 cant 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 Foundations 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 childrens 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 capacity to help devise such plans. For now, they are either missing or being mostly drawn up by the principals. [\[210\]](#)

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 Chatni 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]

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]

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.

The National Advisory Councils 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]

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.

This report was researched and written by Jayshree Bajoria, researcher in the Asia division at Human Rights Watch. The report was edited by Meenakshi Ganguly, South Asia director. James Ross, legal and policy director, provided legal review, and Joseph Saunders, deputy program director, provided programmatic review. Bede Sheppard, deputy director for children's rights, provided additional inputs. Julia Bleckner, associate in the Asia division provided editing and production assistance. Kathy Mills, publications specialist, and Fitzroy Hepkins, mail manager, provided production assistance.

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Above all, we thank all of the children and their parents who shared their painful experiences of exclusion and discrimination with us. We are also grateful to all of the other children, parents, teachers, and village council members who took the time to speak with us and shared their perspectives and views.

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

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- [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.
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- [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>
- [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
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- [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] ICESR, art. 13(2); CRC, art. 28(1).
- [38] CRC, art. 28(1)(e).
- [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.

[47] Child Labour (Prohibition and Regulation Act), 1986, No. 61 of 1986
<http://labour.nic.in/upload/uploadfiles/files/Divisions/childlabour/ChildLabourAct%2016.pdf> 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.

[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.azimpremjifoundation.org/sites/default/files/userfiles/files/RTE-Act.pdf>

[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.

[57] Human Rights Watch interview with Henri Tiphagne, Peoples 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; 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 also The Protection of Civil Rights Act, 1955, No. 22 of 1955 <http://socialjustice.nic.in/pcr-act.php> 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

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

[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.dalitsudies.org.in/download/wp/0603.pdf>; 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).

[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

[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/reportwgdtd01032012.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>

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

[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 Peoples 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.

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

[82] Interview with Shruti Nagvanshi, Founder, Peoples 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.

[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.

[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.

[92] Ibid.

[93] Human Rights Watch interview with Madhus 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.

[95] Ibid.

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

[97] Ibid.

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

[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.

[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.

[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.

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

[105] Ibid.

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[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

[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>

[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>

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

[112] Government of India, Sachar Committee Report, November 2006, http://minorityaffairs.gov.in/sites/upload_files/moma/files/pdfs/sachar_comm.pdf

[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 Governments 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 Bajardiha, Varanasi, Uttar Pradesh, April 10, 2013.

[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.

[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.

[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.

[126] Human Rights Watch, *India No Tally of the Anguish*, October 7, 2009, <http://www.hrw.org/reports/2009/10/08/no-tally-anguish-0>

[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-0> Human Rights Watch, *Broken People: Caste Violence Against India's Untouchables*, March 3, 1999, <http://www.hrw.org/reports/1999/03/01/broken-people-0> 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

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[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>

[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.

[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 the issue of Child Labor, <http://labour.nic.in/upload/uploadfiles/files/Divisions/childlabour/PolicyofGovernmentontheissueofChildLabour.pdf>

[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_0.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
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- [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
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- [148] UNICEF, Time to Take Stock, Time to Discuss RTE, undated, http://www.unicef.org/india/reallives_8138.htm
- [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>
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- [151] The Andhra Pradesh Right of Children to Free and Compulsory Education Rulesm, 2010, <https://dl.dropbox.com/u/67891215/AP%20RTE%20Rules.pdf>
- [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.
- [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>
- [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
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- [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.
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- [165] Human Rights Watch interview with Barkha (pseudonym), Mahbubnagar district, Andhra Pradesh, January 23, 2013.
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- [168] Human Rights Watch interview with Veenas father, Mahbubnagar district, Andhra Pradesh, January 22, 2013.
- [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.
- [171] Human Rights Watch interview with Shyams (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.
- [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.
- [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> 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/50484185b20f2NCLP_Book_Final_Published_2011_.pdf

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

[178] National Family Health Survey III, 2005-2006, http://www.rchiips.org/nfhs/a_subject_report_gender_for_website.pdf

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 Childrens education, Consortium for Research on Educational Access, Transitions and Equity, Funded by DFID, May 2008, http://www.childmigration.net/files/create_08.pdf 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>

[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>

[182] Indias 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

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

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

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[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/1093785/0> (accessed June 25, 2013).

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

[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.

[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.

[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).

[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

[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>

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

[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.

[202] Human Rights Watch interview with Rajeshs 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> 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.

[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.

[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 Niranjanaradhya and Abhinav Jha, Right of Children to Free and Compulsory Education ACT Miles to GoA 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 Niranjanaradhya V P and Abhinav Jha, Right of Children to Free and Compulsory Education ACT Miles to GoA 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.

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

[215] Human Rights Watch interviews with members of Peoples 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.

[217] National 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

[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.

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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.

[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.

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