



Azim Premji  
Foundation

# Right to Education (RTE) Act, 2009 and Private School Closure in India

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Azim Premji Foundation

*This is a preliminary report published based on publicly available data and primary data sourced by our Field Teams. Some of the issues discussed in the report are complex in nature and need further investigation and analysis.*

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In recent years, there have been reports in the media, that due to the implementation of the Right to Education Act 2009, many private schools have been closed down and many more will be closed down. The narrative that is being built around this goes on to say that all this is causing lot of hardships to lakhs of students. We contend that these reports are incorrect and that the narrative is false. We say this on the basis of a large on-the-ground study we have conducted. The study looked at 69 districts, across 8 states of India. Across these districts there are 34,756 private schools. As far as we could find, only 5 private schools have been closed for non-compliance of RTE norms, which is not even remotely comparable to the noise being made. Even for these 5 schools, we could not fully ascertain if RTE is the reason for closure.

Aside from these closures, 7,156 schools have been given notices across these 69 districts:

- 7000 of these notices were given in Bihar (all 38 districts), 105 in Rajasthan (9 districts), 27 in Telengana (1 district), 21 in Chhattisgarh (5 districts), 2 in Karnataka (7 districts) and 1 in Uttarakhand (6 districts). No notices were served in Puducherry and the two districts of Madhya Pradesh.
- None of these are notices for closure as such. All of these are for allowing time to fulfil norms as per RTE. Eg:
  - 7000 in Bihar are part of all private schools going through a recognition process. 3000 of them are being monitored and supported closely to make them RTE compliant.
  - Of 105 in Rajsamand, all schools fulfilled criteria and so none were closed.
  - All of 27 notices in Medak are to schools who don't have recognition, which is a requirement as per RTE.
  - 2 notices in Bangalore are for not enrolling children of economically weaker sections as per RTE.

From this, it is absolutely clearly that no large scale closure is happening – and the notion of “hardship to students” seems to be only a deliberate ploy to foment emotional response. This could be seen as an argument for being let off from the basic norms that should be met by any school, and which are very often not met. In general, nowhere in the world are private schools allowed to operate outside of the legal framework of the country. In line with this, the RTE norms intend to provide a good learning environment for the students and many schools which don't come close to providing such an environment actually deserve to be closed down. This doesn't cause as much hardship as is being made out, as for every private school that maybe shut down, a government school will be for sure present next door, which is available for the students.

### **Brief background of Right to Education**

Elementary Education in India has come a long way due to the systematic strategy of increasing access to quality public schooling under the Sarva Siksha Abhiyan [SSA] since 2000-01. The Millennium Development Goals India Report 2014 confirms that the country had crossed in 2007-08 itself, the 95% cut-off line regarded as marker for achieving the 2015 target of universal primary education for all children aged 6 to 10 years.

The Right of Children to Free and Compulsory Education (RTE) Act, 2009, takes us a step further in realising the goal of Universalization of Elementary Education (UEE). It not only guarantees free and compulsory education, but also provides a justiciable legal framework. The RTE Act provides the

modalities of implementing the Fundamental Right to free and compulsory education under Article 21A and creates an obligation on the state to make a law to realise the right under it. We recognise that the goal of Universalization of Elementary Education will not be achieved so long as children are out of school or continue to drop out due to various reasons. This is all the more reason why the RTE gains credence. The tougher and more intractable socio-economic challenges need deep and systemic improvements in the public schooling system. Realising this national goal also requires a responsible engagement from the private schools that operate within our mixed schooling system.

The RTE Act lays down various norms and procedures and clearly points out that non-fulfilment of any of the norms and standards as specified may lead to the closure of any school. It mandates that all recognized government aided and unaided private schools have to be compliant under the RTE Act. Exemptions are available only for residential and minority schools. In case of schools established before the commencement of the Act that do not fulfil the norms and standards, the Act has provided a time period of three years from the date of commencement, to fulfil them. If any school fails irrespective of the provisions of the act, then its recognition shall be withdrawn and it shall not continue to function. The RTE Act expects schools to meet rather basic norms that ensure child safety and a nurturing environment in schools. Contesting these on the grounds that several private schools will close down, seems to suggest that keeping such schools open under all circumstances is the priority and not universal quality education!

The provisions of the Act came into effect in 2013, the year that marks the completion of the three year time period. It is after this that the concern on the mass closure of private schools that is mentioned above was raised. We tried to uncover the reality behind this in the districts where we operate.

### Key findings of our analysis:

- **In the districts of the 7 States and 1 UT where the Foundation operates, only five schools closed down out of a total 34,756 private schools.** Of these five schools, four schools were closed in Karnataka (all four in Yadgir district) and only one school was closed in Bageshwar district in Uttarakhand. It could not be ascertained whether non-compliance of RTE alone was the reason for these school closures. Also, whether the schools that were closed, were 'recognized private' or 'unrecognized private' schools is not stated. 'Unrecognized private' schools in any case do not have the license to function.
- Out of this total of 34,756 private schools, 21% (7156) were served notice (Table 1), on non-compliance of RTE norms. The bulk of those served notice are in Bihar (some 7,000 schools). But in Bihar this is a part of a process where around 13,500 private schools have applied for recognition. In **Rajsamand** district of Rajasthan, the notice served to 105 private schools was with regards to fulfilling the RTE norms within the timeframe prescribed. These schools subsequently fulfilled the norms and so none of them were closed.
- In many districts no notices were served, even where we know that unrecognized schools exist.
- Also if we were to go by the argument that RTE leads to closure of private schools, then we should have seen an overall decrease in the number of private schools after 2013. However as per 2013-14 & 2014-15 DISE data there is an increase in number of private recognized schools (overall 4%) in 25 out of 35 States/UTs. The number decreases in only 5 States & 1 UT.
- On unrecognised schools, there is a decrease of 18% (4565) in the 2013-14 number as compared to 2012-13. This could mean that either they are now recognized after effective improvement or were found to deserve shutdown.

- In several cases, in the States and UT where we work, there are instances of relaxation of some norms of the RTE and an overall supportive stance of the Government to help schools meet norms.
- It is therefore unclear whether RTE compliance is closing or integrating hitherto unrecognized schools. In either case, student hardship cannot be presumed, since the national goal is certainly not to provide spurious access to education to our children.

In summary, the actual implementation of RTE needs to be tightened – both with respect to issuing notices to both recognized and unrecognized private schools that do not comply and closing schools which after the mandatory period of three years to effect improvements, are still unable to do so.

### **Methodology and Detailed Findings:**

Our analysis of the actual scenario of the closure of private schools, using responsible data is based on both secondary data collected through on-field visits by our operative Field teams to the sources where such data is generated in that region, as well as analysis of national level education statistics for this period. We look at

1. District-wise details of the number of private schools that were served notice under non-compliance of RTE Act 2009 and closure of private schools till September 2015 in the 7 states and 1 UT where the Foundation operates deeply at the district level (Source: Collected by Azim Premji Foundation's field teams from different government sources in the districts)
2. Number of recognized private schools, State-wise for 2013-14 and 2014-15 only (Source: Elementary Education in India: Trend 2005-06 to 2014-15, NUEPA), and
3. Number of unrecognized Private schools, all India (Source: DISE, Flash Statistics 2012-13 & 2013-14)

#### **1. Select District-wise details of the number of private schools that were served notice under non-compliance of the RTE Act 2009 and closure till 2015**

The data was collected from the districts in 7 states and 1 UT where we work. As per the data, only five schools closed down out of total 34,756 private schools. Of these five schools, four schools were closed in Karnataka (all four in Yadgir) and one school was closed in Bageshwar in Uttarakhand. It could not be ascertained whether non-compliance of RTE was the reason for school closure. Further, whether the schools that were closed, were 'recognized private' or 'unrecognized private' schools is not stated. 'Unrecognized private' schools in any case do not have the license to function. But the point to note is that this is just 5 out of 34,756 schools and not 100s or 1000s of schools as is being spread in certain news items.

Further, out of the total of 34,756 private schools in these 7 states and 1 UT, only 21% (7,156) were served notice (Table 1), on non-compliance of RTE norms and standards within the stipulated time period. The data also reflects that no notices were served in many of the districts. As per the RTE Act 2009, schools that do not have a certificate of recognition from an appropriate government or local authority at the time of the commencement were given a three year time period to fulfil the norms and standards at their own expense. If the school fails, only then, their recognition was withdrawn and they were closed. The general process that is followed is that a notice is issued to schools and schools are expected to respond to the notice with their replies. Based on this, an inspection is conducted to check the fitness of the school. So, these notices are clearly an "ask" for the schools to fulfil the norms within a

certain period of time and not a closure notice (except for the few that are recorded as closures, where again we do not know if they were closed due to RTE).

**Table 1: District-wise details of the number of private schools that were served notice under RTE Act 2009 and were closed till September 2015**

State	District	Private schools & RTE		
		Private Schools	Pvt - Served Notice	Pvt- Closed Down
Rajasthan	Tonk	882	0	0
	7 South Western Districts*	6,710	0	0
	Rajsamand	503	105	0
Karnataka	Bagalkot	719	0	0
	Bidar	847	0	0
	Mandya	346	0	0
	Ballari	595	0	0
	Koppal	346	0	0
	Yadgir	336	NA**	4
	Bangalore South	3,919	2	0
	Uttarakhand	Uttarkashi	230	0
	Bageshwar	118	1	1
	Rudraprayag	180	0	0
	Almora	289	0	0
	Pauri	350	0	0
	Dehradun	1,053	0	0
Bihar	Bihar (all districts)	13,500	7,000	0
Telangana	Medak	819	27	0
Madhya Pradesh	Khargone	537	0	0
	Sagar	874	0	0
Puducherry	Puducherry	206	0	0
Chhattisgarh	Bemetara	119	0	0
	Raigarh	331	4	0
	Janjirh-Champa	500	0	0
	Baloda Bazar	272	0	0
	Dhamtari	175	17	0
<b>Total</b>		<b>34,756</b>	<b>7,156</b>	<b>5</b>

\* Jalore, Pratapgarh, Banswara, Dungarpur, Chittorgarh, Pali, Jaipur

\*\* Not Available

Source: Collected by Azim Premji Foundation's field teams from different government sources in the districts

The bulk of those served notice are in Bihar where it is part of a process where around 13,500 private schools have applied for recognition. Around 7,000 have been served notice for non-compliance of RTE norms. However there is no intention on the government's part to close these schools down, given the lack of resources at the government end. In **Rajsamand** district of Rajasthan, for instance, the notice served to 105 private schools was regarding fulfilling the RTE norms within the timeframe prescribed, which they subsequently fulfilled, and thus none of the schools that were served notices were closed.

The Act states that no schools shall be closed down if they comply with the RTE Act, which is what has happened in this instance. The RTE Act penalises schools on two counts - non-compliance with norms and standards and not providing Free and Compulsory Education under Section 12. Why did these schools close down? Or how many notices were about Section 12 and how many were related to just norms and standards? How many included both, and how many notices were issued for other reasons? No conclusions can be reached on the narrative of RTE resulting in school closures unless we are able to investigate at depth the multiple reasons that can cause closure.

The emerging scenario for reduced access to schools due to RTE is equally non conclusive. In the States and UT where we work, the data shows the following.

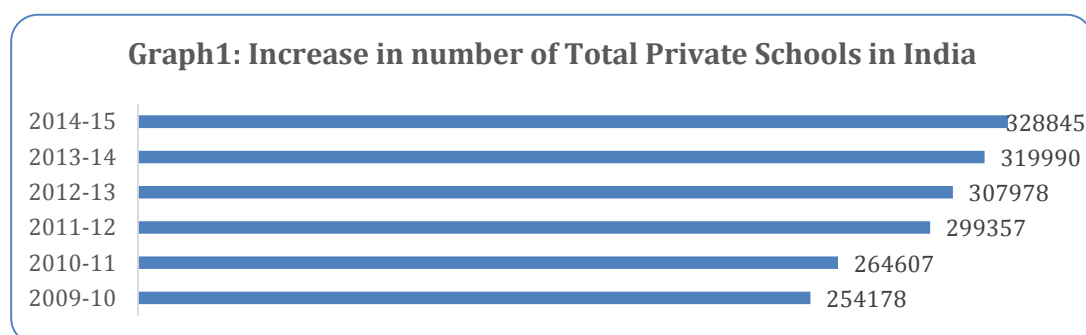
Number of Unrecognized Private Schools		
	2012-13	2013-14
Bihar	8	3066
Andhra Pradesh	2312	1092
Uttarakhand	202	198
Rajasthan	90	29
Chhattisgarh	29	9
Karnataka	0	0
Madhya Pradesh	0	0
Puducherry	0	0

Source: DISE Flash Statistics, 2012-13 & 2013-14

It remains to be seen whether these schools become RTE compliant or not after the mandatory three year period earmarked for effective compliance ends. It is therefore unclear whether RTE compliance is closing or integrating hitherto unrecognized schools. In either case, student hardship cannot be presumed, since the national goal is certainly not to provide spurious access to education to our children.

## 2. Number of recognized private schools in India

The NUEPA publication, 'Elementary Education in India: Trend 2005-06 to 2014-15', show that from 2009-10 to 2014-15 (Graph 1) there has been a constant increase in the number of private recognized schools at the All India level.



Source: Elementary Education in India: Trend 2005-06 to 2014-15, NUEPA

At the state level, comparing the 2013-14 & 2014-15 data, where any mandatory three year notice periods for schools issued after passing the RTE Act can be assumed to end, there is actually an increase in the number of private recognized schools in 25 States/UTs out of 35 States/UTs while a decrease is seen in only 5 States & 1 UT ([Table 2](#)). The maximum increase is seen in Mizoram (84%) followed by

Bihar (71%) while in the other States the increase range is from 1% to 13%. The maximum decrease is seen in Andaman & Nicobar (-34%), followed by Kerala (-4%), Tamil Nadu (-3%), Nagaland (-2%), Madhya Pradesh (-1%) and Sikkim (-0.2%). However, no data can be found to confirm if the closures were all because of non-compliance of RTE norms.

### 3. Number of unrecognized schools in India

#### Unrecognized Private Schools

DISE data, 2013-14, reports no unrecognized private schools in 7 States and all the 7 UTs out of a total of 35 States/UTs. Comparing with 2012-13, the data shows a decrease of 18% (4565) in the number of unrecognized private schools in 2013-14. The decrease was reported from 12 States and 1 UT. Punjab (5010 schools) has the highest decrease followed by Assam (3068 schools), Andhra Pradesh (1220) and Tamil Nadu (143).

Though there is a decrease at the All India level, some states have also reported an increase. Bihar shows highest increase of 3,058 schools (from 8 in 2012-13 to 3,066 in 2013-14)<sup>1</sup>, followed by Jharkhand (815 schools), Kerala (496 schools) and West Bengal (487 schools). Meghalaya, Tripura, Manipur, Maharashtra, Odisha and Arunachal Pradesh have also reported increase in unrecognized private schools. ([Table 3](#))

It remains to be seen whether these schools will become RTE compliant after the mandatory three year period earmarked for effective compliance.

### 4. More examples of the flexible approach taken by different governments on RTE

Some media reports suggest that in some of the States, the Government is relaxing some norms for e.g. Delhi has reduced the required size of land, Haryana has reduced the required 25% quota for economically backward class to 10% for a time period.

In **Bihar**, some 7,000 schools were served notice. However as described above this is a part of a process where around 13,500 private schools have applied for recognition and there is no intention on the government's part to close these schools down, given the lack of resources at the government end. Further 3000 of them are being monitored and supported closely to make them RTE compliant.

According to the information collected from **Bellary** district in Karnataka, a three person committee was also formed including DIET faculty to study the status of the private schools with regard to infrastructure, teacher's ratio and other requirements as per the permission given by the Department. The reports were submitted to commissioner office but action has yet to be taken. Similarly, in **Bangalore Urban**, 2 Private schools have been served notice from Block Education Office in Anekal for not enrolling the children as per RTE. A police complaint had been made in this regard but the schools were still not closed.

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<sup>1</sup> DISE reports that data may have incomplete coverage or may not present complete coverage of such schools



The story is no different in **Puducherry**. Only partial implementation of RTE was reported in government schools. Provision for admission of 25% of disadvantaged/weaker students in class I was not followed.

A proceeding from District Education Office in **Medak** states the various norms to be fulfilled by September 2014. While notices were served to 27 schools based on this, no schools have been closed. These schools are still operating because they are under various stages of the process of getting recognition. The government here is primarily focusing on recognition.

States are also becoming transparent in terms of implementing RTE. One of the best examples that can be given is that of the state of Madhya Pradesh for their transparent system of recognition. All rules under RTE Act have been notified in the state and responses are also received from schools.

- School Management Committees have been constituted and trained in the government schools.
- Instructions are issued about provision of banning of screening in admission and charging capitation fee.
- Instructions are issued to all government and private schools to not to hold back any child in any class up to class 8<sup>th</sup>, to ensure that the children are not subjected to any kind of physical punishment & mental harassment and to ensure that the teachers do not engage in private tuitions.
- Undertaking has been taken from government teachers to adhere to provisions of the Act.

#### **Madhya Pradesh - The First State in India to have a Transparent System of Recognition**

The rules under the RTE Act have been notified in the State and the process of granting recognition to private schools is continuing. A web portal has been developed for online registration of applications for granting certificate of recognition to private schools. Out of total 726 private schools, 519 private schools have been granted recognition so far and the process is ongoing.

This is true of most states, they have notified rules, made them available online and have also prescribed proformas for applying for recognition.

In conclusion, the Right to Education Act 2009 is a legislative framework which is trying to ensure quality education in India and as such has laid some norms and standards. It does not in any way by design seek closure of private schools, so long as these norms are met. **As revealed in this report, it doesn't seem to result in closure of private schools in practice either, at least in districts of the 7 States and 1 UT where the Foundation operates.**

**Table 2: Increase/Decrease of Private Recognized Schools**

States/UTs	2013-14	2014-15	No. Increase/Decrease in 2014-15 from 2013-14	% Increase/Decrease 2014-15 from 2013-14
Tamil Nadu	19735	19161	-574	-3%
Kerala	10151	9788	-363	-4%
Madhya Pradesh	26668	26367	-301	-1%
A&N	106	70	-36	-34%
Nagaland	717	704	-13	-2%
Sikkim	407	406	-1	-0.2%
Chandigarh	80	80	0	0%
D&N Haveli	44	44	0	0%
Lakshadweep	0	0	0	0%
Daman & Diu	25	26	1	4%
Manipur	1421	1424	3	0.2%
Puducherry	284	294	10	4%
Goa	548	562	14	3%
Tripura	286	300	14	5%
Jharkhand	2335	2354	19	1%
Arunachal Pradesh	451	502	51	11%
West Bengal	9657	9725	68	1%
J&K	5073	5165	92	2%
Uttarakhand	5716	5817	101	2%
Himachal Pradesh	2497	2599	102	4%
Meghalaya	5177	5284	107	2%
Punjab	7603	7769	166	2%
Haryana	6450	6638	188	3%
Chhattisgarh	5650	5839	189	3%
Rajasthan	33658	33889	231	1%
Assam	6753	7037	284	4%
Delhi	2561	2897	336	13%
Mizoram	425	784	359	84%
Odisha	7611	7995	384	5%
Gujarat	9462	9880	418	4%
Karnataka	15310	15929	619	4%
Andhra Pradesh	28404	29397**	993	3%
Maharashtra	28130	29126	996	4%
Bihar*	1698	2899	1201	71%
Uttar Pradesh	74897	78094	3197	4%
India	319990	328845	8855	4%

Source: Elementary Education in India: Trend 2005-06 to 2014-15, NUEPA

\*Incomplete coverage

\*\*Includes Telangana

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**Table 3: Number of Unrecognized Private Schools**

	Unrecognized Pvt. Schools 2012-13	Unrecognized Pvt. Schools 2013-14
<b>A &amp; N Islands</b>	0	0
<b>Andhra Pradesh</b>	2312	1092
<b>Arunachal Pradesh</b>	3	6
<b>Assam</b>	10077	7009
<b>Bihar</b>	8	3066
<b>Chandigarh</b>	0	0
<b>Chhattisgarh</b>	29	9
<b>D &amp; N Haveli</b>	0	0
<b>Daman &amp; Diu</b>	1	0
<b>Delhi</b>	0	0
<b>Goa</b>	1	0
<b>Gujarat</b>	1	0
<b>Haryana</b>	546	501
<b>Himachal Pradesh</b>	0	1
<b>Jammu &amp; Kashmir</b>	0	0
<b>Jharkhand</b>	2370	3185
<b>Karnataka</b>	0	0
<b>Kerala</b>	1259	1755
<b>Lakshadweep</b>	0	0
<b>Madhya Pradesh</b>	0	0
<b>Maharashtra</b>	574	607
<b>Manipur</b>	126	134
<b>Meghalaya</b>	85	111
<b>Mizoram</b>	5	4
<b>Nagaland</b>	0	0
<b>Odisha</b>	1498	1539
<b>Puducherry</b>	0	0
<b>Punjab</b>	5236	226
<b>Rajasthan</b>	90	29
<b>Sikkim</b>	0	0
<b>Tamil Nadu</b>	193	50
<b>Tripura</b>	9	11
<b>Uttar Pradesh</b>	167	118
<b>Uttarakhand</b>	202	198
<b>West Bengal</b>	1213	1700
<b>All States</b>	26005	21351

Source: DISE Flash Statistics 2012-13 & 2013-14

\*DISE reports that data may not present complete coverage of such schools

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