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State Regulatory Profile

Delhi

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State Regulatory Profile: Delhi

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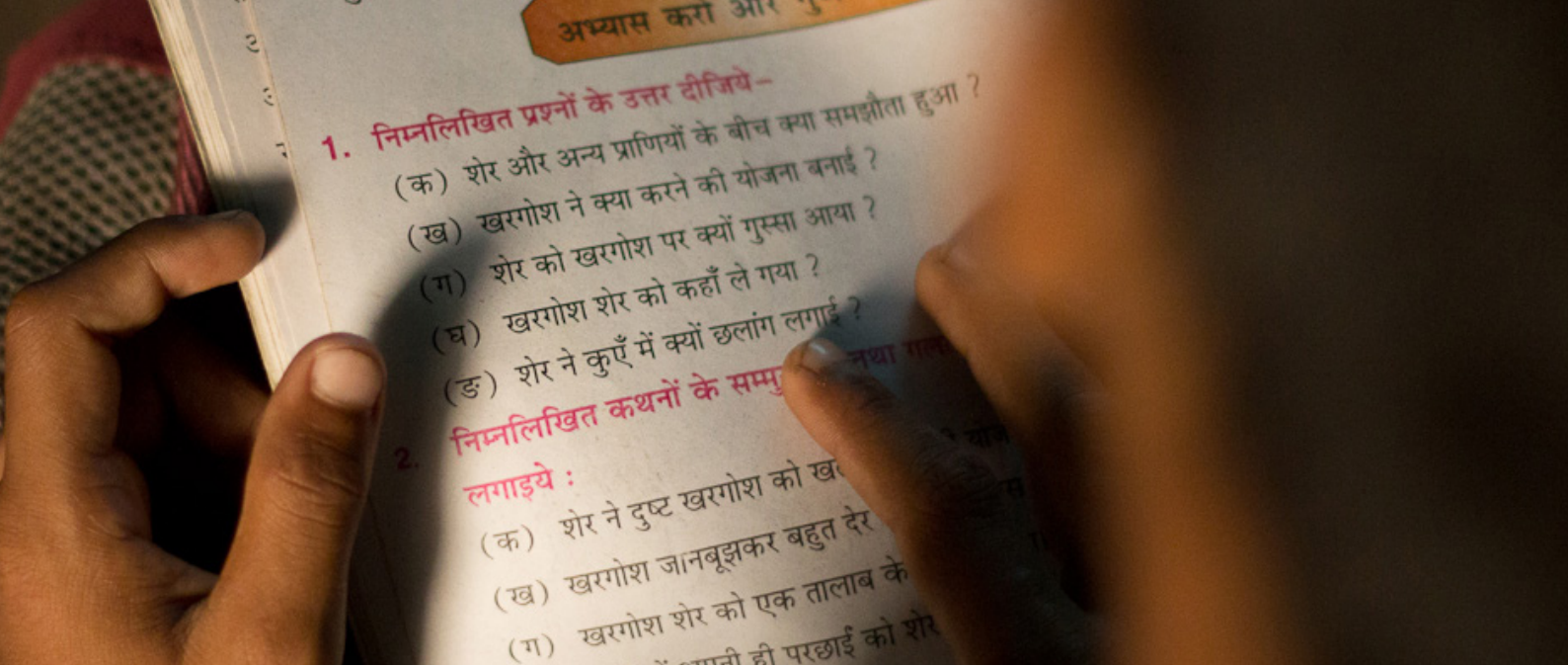
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Executive Summary

School education in India is governed by both the Union and state governments. While at the national level, the Right to Education (RTE) Act, 2009 provides a framework for schools, states have enacted ~145 Acts to govern school education. State education departments wield power to issue circulars, regulate private schools, and run government schools. As a result, these departments act as both the players and regulators in school education. Recognising this conflict of interest, the National Education Policy (NEP) 2020 recommended setting up an independent regulator—State School Standards Authority (SSSA):

“To ensure that all schools follow certain minimal professional and quality standards, States/UTs will set up an independent, State-wide, body called the State School Standards Authority (SSSA)”

This regulator will monitor all schools (government and private) on some minimum standards, ensuring regulatory symmetry. Setting up the SSSA will require a modification of existing laws and taking stock of the current status of K-12 education in states. To chart the way forward for Delhi, this report examines its regulatory framework and performance on key parameters such as enrollment, equity, infrastructure, and learning outcomes.



Some key findings include:

- Education laws in Delhi discriminate against private schools; the recognition and inspection process is riddled with conflicts of interest and adopts a discriminatory approach towards private schools.
- Private unaided schools also have to bear the heavy cost of compliance related to employee salaries and teacher qualifications which can result in a hike in school fees.
- The Delhi RTE Rules has introduced new rules for opening and recognising private schools which do not find a mention in the RTE Act. Some of these rules such as rule 26 evade a parliamentary check, otherwise necessary for all rules, and open room for misuse of power.
- The enrolment in government schools has increased from 53.83% in 2019 to 61.17% in 2022 and fallen in private schools.
- Private schools perform better than government schools on equity parameters, such as the provision of toilets for girls. 30% of government schools in Delhi do not have functional toilets for girls, while only 0.27% of private unaided schools lacked these facilities in 2021-2022.
- The pupil-teacher ratio in government schools of Delhi at the upper primary level is the worst in the country in 2021.
- Despite the rise in per-child expenditure from 2016 to 2022, the learning outcomes in government schools have decreased. The average performance of students in government schools in the National Achievement Survey (NAS) 2017 was better than their performance in NAS (2021).
- Students from private unaided schools perform better than students in state government schools across all grades, as per the National Achievement Survey (NAS) 2021. On average, 67.59% of students in private schools gave right answers in language assessment compared to 47.9% of students in state government schools and 56.85% of students in central government schools.

This report conducts a status check of K-12 education in Delhi and highlights the hits and misses. The report aims to gather evidence for how priorities must be defined while improving access to and quality of school education in Delhi.

1

**What is the
regulatory framework
for schools in Delhi?**

Laws regulating school education in Delhi

School education in Delhi is primarily governed by the following Acts and rules:

1. **Delhi Municipal Corporation Act, 1957:** The Act establishes an Educational Committee whose functions in school education will be determined by the Municipal Corporation of Delhi. Further, it requires the Corporation to manage and support primary education in government and government-aided schools. The Corporation can also take steps to further education by organising cultural and physical activities, under the supervision of GNCTD.
2. **Delhi Primary Education Act, 1960:** This Act requires the local authority to provide free and compulsory primary education for all children between the ages of 6-14 years under its jurisdiction. The local authority is required to submit a scheme to the Government of the National Capital Territory of Delhi (GNCTD) outlining the number of schools it will open, the children it will cover, the availability of teaching staff, and the funds required to meet this objective.
3. **Delhi School Education Act, 1973:** The Act aims to improve the organisation and development of schools in Delhi. It deals with the establishment, recognition, inspection, and management of all schools, including private schools. The act also lays down terms and conditions of services for employees of a recognised private school.
4. **Delhi Right of Children to Free and Compulsory Education Rules, 2011:** These rules, drafted under the Right of Children to Free and Compulsory Education Act, 2009, cover provisions for the composition of school management committees, the admission of socially/economically disadvantaged students to private schools, setting standards for recognition, pupil-teacher ratios, and teacher qualifications, among others.
5. **Delhi School Education Rules, 1973:** Notified under the Delhi School Education Act, 1973, these rules regulate and manage all schools in Delhi. The rules elaborate on matters such as opening a new school, recognition of private schools, and setting minimum qualifications, salaries and code of conduct for teachers in all schools.

Distribution of Powers and Functions in K-12 Education

In Delhi, the Directorate of Education regulates and governs private schools while also running government schools. This creates a conflict of interest. Delhi's unique status as a Union Territory and the country's capital results in additional challenges in the distribution of powers between the administrator and the Director of Education. For example, local authorities run primary schools under the supervision of the Government of National Capital Territory of Delhi (GNCTD). However, the local authority is headed by the administrator and its funds are determined by the Union Government.¹ Such overlapping powers might result in ambiguity and inefficiency while performing functions. The following table lists the body/ officials involved in executing functions pertaining to the governance of schools in Delhi. It highlights the statutes applicable, allocation of responsibilities, and challenges (if any).

Table 1: Delegation of powers in Delhi education sector

Function	Statutes applicable	Authority assigned to perform the function	Tasks under the function	Missing tasks
<i>School Regulation</i>	Delhi Right of Children to Free and Compulsory Education Rules, 2011. ²	The administrator can delegate the power to the Directorate of Education, District education officer, and Zonal education officer. ³	Regulation and recognition of private schools.	<ul style="list-style-type: none"> Recognition norms are not applicable to government schools. Focus on inputs/ infrastructure instead of learning outcomes.
	Delhi School Education Act, 1973. ⁴	The administrator has the power to regulate the schools and to delegate this power to the Director of education.	Regulation and recognition of all schools.	<ul style="list-style-type: none"> Due to the lack of clarity on the extent of the delegation of powers by the Administrator to the Government of NCT of Delhi, there is a constant tussle between them leading to delays and inefficiency (Kaushika 2015).
<i>Polymaking (Power to formulate guidelines and regulations for education-related policy)</i>	Delhi School Education Act 1973 ⁵	The administrator shall be in charge of drafting rules; the Delhi School Education Advisory Board, nominated by the administrator, for a period of three years advises the Administrator on matters pertaining to policy-making. ⁶	The administrator has the authority to frame policies with the advice of the Delhi School Education Advisory Board and previous approval from the Central Government. ⁷	

1 Section 42(r), Delhi Municipal Corporation Act, 1957

2 Rule 44 of Delhi Right of Children to Free and Compulsory Education Rules, 2011, Section 4 of Delhi School Education Act, 1973

3 Article 239 of Constitution of India states that every Union Territory in India shall be administered by the President of India through an administrator to be appointed by him. It is called Lieutenant Governor in Andaman and Nicobar Islands, Delhi and Puducherry. Thus, Lieutenant Governor is an administrator and not a constitutional head like governors of states.

4 Section 3 of Delhi School Education Act

5 Section 22, 28 of Delhi School Education Act 1973

6 Rule 186 of Delhi School Education Rules, 1973.

7 Section 22 of Delhi School Education Act, 1973

Function	Statutes applicable	Authority assigned to perform the function	Tasks under the function	Missing tasks
<i>Service delivery (Organisation and management of government schools)</i>	Delhi Primary Education Act, 1960	Under the Education Department GNCTD, <ul style="list-style-type: none"> Education Department of Local bodies (MCD, NDMC, DCB & DSW).⁸ 	Local bodies (MCD, NDMC, DCB) - provide primary education	<ul style="list-style-type: none"> There is an overlap of functions in running government primary schools. These schools are maintained by the local bodies under the supervision of GNCTD. However, the administrator heads the local bodies and the Union Government determines the funds, and aid to be given to primary schools.⁹ Such overlapping functions between the Centre and the local authorities may lead to conflicts and inefficient management.
	Delhi Education Act, 1973	<ul style="list-style-type: none"> Directorate of education. provides 	Directorate of Education- Provides Middle, Secondary and Senior Secondary Education.	<ul style="list-style-type: none"> The Director of Education regulates as well as runs government schools. As private schools become direct competitors of government schools, such overlapping responsibilities result in a conflict of interest.
<i>Service delivery (Takeover of private unaided schools and its management)</i>	Delhi School Education Act, 1973. ¹⁰	Administrator and the Director of Education	The administrator takes over the managing committee of a private school if the school does not comply with (or violates norms under) Delhi School Education Act and Rules (DSEAR, 1973). ¹¹ If the managing committee fails to deliver school property to the administrator, they can be imprisoned for up to three months/fined or both.	<p>government schools, such overlapping responsibilities result in a conflict of interest.</p> <ul style="list-style-type: none"> The administrator is responsible for not only taking over the management of the school but also hearing appeals of the school management against this action. This violates the principle of natural justice wherein, one cannot be a judge in their case. Further, the redress mechanism against the order of take-over lacks a timeline.¹²

8 The appeal against de-recognition of private schools lacks impartiality

9 Delhi Municipal Corporation Act, 1957, 42(r).

10 Section 20 of Delhi School Education Act 1973

11 Rule 50, 59 of the Delhi School Education Rules 1973

12 Section 24(4) of DSEA

Function	Statutes applicable	Authority assigned to perform the function	Tasks under the function	Missing tasks
Grievance Redressal	Delhi Right of Children to Free and Compulsory Education Rules, 2011 ¹³	To address the grievances there is a four-tier committee: <ol style="list-style-type: none"> 1. School Level Staff Grievance Redressal Committee 2. Zonal Level Staff Grievance Redressal Committee 3. District Level Staff Grievance Redressal Committee 4. Regional Director Level Staff Grievance Redressal Committee.¹⁴ 	Review and examine the safeguards under RTE; the four-tier committee addressing grievances made by the staff members (teaching/ non-teaching) in government/ government-aided schools.	
	Delhi School Education Act ¹⁵	Delhi Commission for Protection of Child Rights (DCPCR)	It addresses grievances of school students regarding violation of rights under RTE which includes, complaints related to admission of EWS category students, lack of basic amenities in schools, corporal punishment to children etc. ¹⁶	<ul style="list-style-type: none"> • Private schools that have their recognition withdrawn lack an independent mechanism for addressing grievances. In cases where an official is appealed against, the authority or body responsible for appointing that official handles the appeal. The civil courts are barred from having jurisdiction in matters related to the administrator or Director, the authority to issue recognition. ¹⁷
	Delhi School Education Act ¹⁸	Delhi School Tribunal	It hears grievances related to dismissal, removal or reduction of ranks of employees of the recognised private schools.	

13 Section 2 of RTE Act 2009, Rule 20 of Delhi Right of Children to Free and Compulsory Education Rules, 2011, Section 4 of Delhi School Education Act, 1973

14 F.NO.23(13), Directorate of Education, Right to Education, 2012

15 Section 11, 8(3) of Delhi School Education Act 1973

16 DCPCR-Grievances may relate to violation of any of the provisions under the RTE Act and may be against any public officer, public servant, private institution, private person or any other agency responsible directly or indirectly for the effective implementation of provisions of the RTE Act. Such as cases related such as non-issuance of registration forms, lack of transparency, and corporal punishment, screening test for admission of children in nursery class, denial of benefits to children with special needs.

17 Section 20, DSEA

18 Section 11 of Delhi School Education Act 1973

Function	Statutes applicable	Authority assigned to perform the function	Tasks under the function	Missing tasks
Quality audit	Right to Education Act, 2009 ¹⁹	NCERT & CBSE	NCERT prepares a framework and CBSE conducts a nation-based survey known as NAS to assess the learning outcomes of children studying in Grades 3, 5, 8, and 10.	
	Right to Education Act, 2009 ²⁰	Delhi State Council for Educational Research and Training (SCERT) ²¹	SCERT, Delhi released a notification for conducting State Assessment Survey (SAS) in October 2022 for Grades 3, 5, 8 and 10 for government/aided and private schools. ²²	<ul style="list-style-type: none"> SAS was not conducted in schools managed by the Central Government.
		Delhi Board of School Education (DBSE)	A State-level board was established in 2021 to provide specialised education to classes 9-12. ²³	<ul style="list-style-type: none"> DBSE is yet to provide affiliation to private schools.

19 Right to Education Act, 2009.

20 Section 22(3), of Right to Education Act, 2009.

21 SCERT notification for conducting SAS.

22 NEP recommends states to develop their own State Assessment Survey (SAS) for tracking the learning outcomes of students in each state.

23 Delhi govt ran a pilot project for opening up of a new state board in 2021-2022 known as DBSE. The Board is only applicable to select schools, known as Schools of Specialized Excellence (for classes 9-12). Approximately 31 schools have opted for this board.



What are the challenges in the regulatory framework for schools?

Licensure, establishment, and recognition of schools

Discriminatory approach towards private schools

Per Rule 14 of the Delhi Right of Children to Free and Compulsory Education Rules, 2011, every private unaided school needs to comply with the recognition norms under the RTE Act, 2009. Recognition requires private schools to meet certain standards such as building infrastructure, pupil-teacher ratio, library, playground, etc. However, the norms are only applicable to private schools; government schools need not apply for recognition or comply with the standards for meeting the recognition. This creates “regulatory asymmetry” between private and government schools (National Education Policy 2020). A private school can get de-recognised if it fails to fulfil the RTE norms. The same department, however, also runs government schools without bearing the mandate of RTE standards. This leads to a conflict of interest and excessive centralisation of power within one department (National Education Policy 2020).

The laws also adopt a supportive approach to govern government schools and a heavy hand while regulating private schools (Sharma, and Chandra 2017). It uses a strict ‘enforcement’ vocabulary like “shall withdraw”, “shall cease to function”, or “might be terminated” while referring to private schools, but government schools are subjected to provisions such as “shall prepare”, “shall undertake”, or “shall decide”. There is clear evidence of legal discrimination against private schools with limited accountability for government schools.

Delhi government has started a virtual school known as Delhi Virtual School Model School (DMVS) which is affiliated with DBSE. The classes will be held online, and the schools need not have an existing building, or a class to impart learning. While it is a progressive move in re-imagining education, it also shows the adverse consequences of making regulators responsible for provisioning. On one hand, RTE mandates private schools to fulfil the input heavy requirement of the recognition process while on the other hand, the government can run schools without a building or a classroom. Such a discriminatory approach to regulating private schools can be seen as a consequence of the conflict of interest, in which one single department, i.e., the Department of Education performs multiple overlapping functions. The different roles of provisioning, regulation and monitoring need to be separated to make laws that are more responsive to the needs of the ground (National Education Policy 2020).

Recognition of schools is an input-heavy and cumbersome process

According to rule 50 of DSEAR, private schools need to jump through complicated compliance processes for establishing a school and obtaining a certificate of recognition. Private schools in Delhi need to obtain an essentiality certificate, a certificate for a scheme of management, and a recognition certificate (K, and Sood 2019). Some of these requirements, such as the 'essentiality certificate', are outcomes of practices that are now outdated and ill-conceived. As noted by the Review Committee on DSEAR 1973, the essentiality certificate was introduced at a time when most schools were allotted lands by DDA. Over the years, this policy has changed and several societies do not require DDA land for setting up schools, making the certificate a redundant requirement (Report of the Review Committee on the Delhi School Education Acts and Rules, 2012). Additionally,

Delhi already faces shortages of non-agricultural land on which schools can be built. By putting additional restrictions, the directorate limits the supply of schools in a city that has a scarcity of non-agricultural land (Report of the Review Committee on the Delhi School Education Acts and Rules, 2012). Such artificial constraints prevent the market from responding to the demand for schools and keep the supply of schools low.

To obtain recognition private schools have to meet an input-heavy checklist of 73 points and provide a detailed description of their infrastructure such as the dimensions of reading rooms, classrooms, number of fans, furniture etc. It also requires schools to respond to questions such as whether the school provides quality education, without specifying what quality means.²⁴ Meeting these restrictive regulatory norms becomes a challenge, especially for low-fee private schools. For example, often low-fee schools are located in narrow lanes where it becomes difficult to get fire safety certification (Narang and Sudhakar 2022). Unfortunately, a restrictive input-centric recognition mechanism fails to consider the variation in private schools, and clubs high-fee and low-fee schools together (Narang and Sudhakar 2022) (Kingdon 2007).

Excessive delegation to the executive and misuse of powers

The unchecked discretion of the executive opens up the room for arbitrary interventions which might hamper individual rights (Frankfurter 1927). Clear and sufficient guidance in the law is essential to prevent power abuse by the executive (Bedi and Narang 2022).

Per Delhi Right to Education Rules, the director can issue "instructions" to implement various provisions of the RTE Act, 2009.²⁵ However, the parent act (RTE 2009) does not delegate any such power to the director. The Act only empowers the state government to issue rules/notifications subject to discussion in the state legislative assembly.²⁶ As a result, Rule 26 of the Delhi RTE Rules 2011 evades a parliamentary check and opens room for misuse of power.²⁷

24 The 73 Point Checklist is issued by the Private School Branch, DOE. Earlier, the checklist included 91 points.

25 Rule 26 of Delhi RTE.

26 Right to Free and Compulsory Education Act, 38(4)

27 The Delhi Right to Education Rule, 27 also gives power to the state government to delegate its functions to director or any other authority which appears to be ultra vires and gives power to bureaucrats without checks and balances.

Per the Delhi Right to Education Rules, schools must run as a not-for-profit and can only be registered under the Societies Registration Act 1860 or a Public Trust.²⁸ This requirement is not mentioned under the RTE Act, 2009. The not-for-profit condition discourages new entrants and stifles competition in the market (Tooley 2007). Since schools are unable to raise and build financial capital, they rely on fees paid by parents to meet their expenses, which not only puts uneven pressure on parents but also makes schools and parents more vulnerable to adversities. As a result, during the pandemic, budget private schools struggled to stay afloat in the wake of rising fee defaults (Narang and Sudhakar 2022). Per some estimates, private schools faced ~20-50% loss of revenue during the pandemic (Central Square Foundation 2021). Allowing private schools to register as for-profit enterprises under the Company Act, 2013 would have enabled them to explore financing options to tackle this situation (Narang, and Sudhakar 2022).

It can also help attract more players to set up schools (Report of the Review Committee on the Delhi School Education Acts and Rules, 2012). The schools then can also be held to the same accounting and transparency standards as other businesses (Narang, and Sudhakar 2019). Such measures in school education can make it a lucrative investment and will also help increase innovation in school education.

Moving from a constraining system of recognition to self-regulation or accreditation

Taking cognisance of such challenges, in school education, the National Education Policy (NEP) 2020 recommends that states set up a flexible accreditation framework that factors in the local context and is applicable to both private and government schools. In order to ensure that all schools follow the minimum basic standards it recommends setting up an independent regulator known as the SSSA. SSSA will regulate schools using a “light-but-tight” approach, which leaves breathing room for schools to respond to their local needs and constraints without compromising the basic requirements for safety, security and a conducive environment for learning (NEP 2020). Overall, the NEP encourages moving from an input-heavy recognition system, to one based on self-disclosure and self-regulation.

Fee regulation by the Executive and Judiciary

Delhi Education Act and Rules (DSEAR), 1973 regulates school fees in every recognised school.²⁹ According to section 17 of DSEA, every recognized school (aided/unaided) is required to submit, to the director, a full statement of the fees they will charge before the commencement of the academic year. After notifying the fees charged and getting approval from the Department of Education, schools are allowed to charge only the specified amount. How the fees can be collected and spent is decided by the Administrator, schools are not allowed to act independently. This severely restricts their managerial and financial autonomy (Agarwal et.al. 2019).³⁰

28 Delhi School Education Rules 14(b)

29 Section 17(3)of Delhi School Education Act, and Rule 44, 160, 172, 177 of Delhi School Education Rules.

30 Section 18 (4) (a) of DSEA

Other than DSEAR, there are no other state laws in Delhi which govern fees. In other states such as Uttar Pradesh and Maharashtra, private schools are governed by state fee regulatory committees that clearly set the criteria for raising the fee and mechanism for redressal of grievances.³¹ However, in Delhi, there are no such functional fee regulatory committees.³² Therefore, the fee structures and hikes are governed by different court judgments and executive orders (Agarwal et.al. 2019). But the circulars and the judgments are often not in tandem with each other which results in “inconsistent, unsystematic and unpredictable rules” (Agarwal et.al. 2019).

While government circulars make it mandatory for schools to get approval from the Director before any fee hike, the court judgement squashes this permission mandate.³³ This regulatory ambiguity creates an unpredictable environment for schools. It not only affects the existing school owners and the new entrants but also the parents and the students who are caught in the uncertainty between executive orders and judgements.

Fee hikes due to the high cost of compliance

Along with bearing the burden of RTE norms, private unaided schools in Delhi are also burdened by the compliance related to employee salaries and teacher qualifications.³⁴ According to DSEA, a recognised private school must pay their employees according to the Pay Commission Scale. Unlike a government school which receives a steady flow of taxpayers’ money, private schools which are by no means a uniform category, are often dependent on school fees to run the school (Padmanabhan 2020). This mandate leads to an increase in the cost. When the government revises its pay scale private schools have to adjust their fee structures to accommodate the effect of such recommendations (Report of the Review Committee on the Delhi School Education Acts and Rules, 2012). These mandates lead to an increase in the cost of compliance for private schools, which adversely affects not just private schools but students as well. On one hand, it becomes difficult for private schools to pay their employees per government Pay Commission Scales without a fee hike which becomes difficult amidst heavy regulations against fee hikes. On the other hand, fee hikes might make continuation of enrolment in private schools difficult for students, especially in a low-fee private school. There have been several court cases filed by the Parents Association from 1996 against fee hikes, which are often an aftermath of the revised pay scales of the government (Report of the Review Committee on the Delhi School Education Acts and Rules, 2012). Recent judgements have made regulations stricter and upheld the compliances, instead of dwelling on the root cause and finding solutions that cater to all stakeholders.³⁵

31 In U.P, private schools are governed by U.P Self-Financed Independent Schools (Fee Regulation) Act, 2018. In Maharashtra, the fee is regulated by the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admission and Fees) Act, 2015.

32 As per the Justice Duggal Committee 1999, a district-level Fee Anomaly Committee in 2018 for resolving fee-related dispute was set up in Delhi. However, primary research conducted by CCS in 2019 showed that in all districts the committee has either not been set-up or is defunct

33 Mahavir Sr. Model School v. Directorate of Education, 2023: court judgement on making the prior approval from the Director non-mandatory.

34 Section 10, DSEA; Government order for private schools to comply by the Pay Commission Recommendations.

35 In Bharat Mata Saraswati Bal Mandir ... vs Vinita Singh And Ors, July 2023, the High Court dismissed the appeal of private schools which challenged the government directive for paying private employees per the government commission pay scale. The High Court decided that private and government school employees are entitled to the same salary.

Cross subsidisation under RTE section (12)(2)

The RTE Act, 2009 makes it mandatory for private schools to admit students (25% of the total strength in class) from economically weaker and socially disadvantaged groups (EWS/DG) of society. ³⁶The government reimburses schools based on its calculation of per-child expenditure or the amount charged by the school, whichever is lower. In cases where a school charges a higher fee than the government's per-child expenditure, the burden of the deficit is borne by the private school (Khadgawat et al. 2021).

This reimbursement amount covers recurring costs of the school such as teacher salaries, and school maintenance but the non-recurring costs, such as school development-related activities and the provision of additional equipment like laptops/tablets for students. (Jha et al. 2013). Moreover, the RTE Act fails to stipulate a timeline within which private schools need to be reimbursed. As a result, reimbursements are often delayed (Ashar et al. 2021).

The delays in reimbursements as well as the cost incurred by the schools to accommodate students from EWS/DG categories impose a serious financial burden on private schools (Ashar et al. 2021). Since school fee is a key source of income for private schools, they end up revising the fee structure for non-EWS category students to recover the costs (Ashar et al. 2021). Cross-subsidisation becomes more challenging when a private school is located in a low-income community, where a slight fee increase can affect the parents disproportionately. Approximately 45.5% of students in India study in low-fee or affordable private schools and are likely to bear the effect of this cross-subsidisation (MoSPI Report 2019).

De-recognition process for schools

Under Rule 15 of Delhi RTE, if a recognised school violates conditions for recognition or fails to meet norms and standards, the relevant authorities send a notice specifying the violations. The director has the discretion to issue a notice if the school fails to conform to one or more than one norm. In cases where the school's response is unsatisfactory, a committee inspects the school and submits a report advising whether recognition should be withdrawn. The director of education can then pass an order for withdrawal or continuation of recognition.

36 Section 12, RTE.

The appeal against de-recognition of private schools lacks impartiality

The appeal of private schools against de-recognition lacks independent oversight. In all cases, the appeal against the official that derecognises a school is heard by the body/ official that nominated them for the role. For instance, in cases where the recognition is granted by the officer authorised by the administrator, the appeal against de-recognition goes to the administrator. There is no independent appeal mechanism.

Under Section 25 of DSEA, civil courts are also barred from having jurisdiction on matters relating to the director or administrator. The administrator or the director holds the final authority over recognition-related matters. Schools can approach the High Court for judicial review. However, this redressal mechanism is often costly and cumbersome.

Inspection process for schools

Conflict of interest in the inspection process of private schools

To ensure that recognised schools continue to comply with recognition norms, the Directorate of Education in Delhi has the power to conduct inspections in all recognised private schools. The inspection can be carried out by the Directorate of Education (DoE) nominee appointed by the private school branch for each recognised private school.³⁷ However, the DoE only conducts inspections of private schools.

The inspection panel is led by a Deputy Director of Education (District) and is made up of 4-8 officers, such as an Assistant Accounts Officer/Accounts Officer, an Education Officer (EO), or a District Education Officer (DEO) from the school's zone, among others. The Deputy Director of Education is assigned to schools outside their district to avoid any potential conflict of interest that could arise from having a designated district official inspect a private school under their jurisdiction. However, the panel overlooks other apparent conflicts. For instance, government school principals and officials from the Directorate of Education, who run and administer government schools, are also part of the inspection panel. This arrangement grants discretion to public officials who have a vested interest in the matter and may act in an adversarial manner when inspecting private schools. Instead of having a third party inspect all schools, the current structure permits public officials who also oversee government schools to inspect private schools at any time during the year. This setup undermines the impartiality and objectivity of the inspection process.

Subjective evaluation in the name of objectivity

According to rule 192 of DSEAR, inspections should be objective and shall aim at bringing about improvements in the standards of teaching in the school. However, it lacks objective evaluation guidelines for the inspection officers to achieve the same. Instead of an objective method to judge teachers' and students' performance, the

³⁷ The private school branch is a specialised branch under DOE which is responsible for establishing, recognising, regulation and inspecting of private recognised schools.

process is ridden with subjective questions and indicators, answers of which vary from inspector to inspector (Anand et al 2019). For example, while inspecting the quality of academic activities, the inspector is asked to observe indicators such as “true synopsis of the lesson”. Such open-ended indicators can vary from one inspector to another, which can be difficult to measure and harder to challenge. As a result, the inspection process becomes a reflection of the inspector’s subjective assessment and leaves room for discretion by government officials. This subjectivity becomes a major concern, given the conflict of interest inherent in the inspection of private schools.

Lack of state capacity to carry out the inspection process

Section 24(1) of DSEA mandates at least one inspection per financial year. However, due to the lack of state capacity, the DOE inspects only 60 schools every year—5 schools from each district (Jain and Singla, 2019). At 60 schools a year, the Directorate of Education would take 43 years to inspect 2610 private schools in Delhi (Jain and Singla, 2019). If every private school is to be inspected each year then at the present state capacity, giving feedback and correcting the deficiencies of the school becomes infeasible (Report of the Review Committee on the Delhi School Education Acts and Rules 2012).

Inspection to be conducted by a third party

Enhancing state capacity will not resolve the key issue of conflict of interest. The approach for inspecting private schools needs an overhaul so that it can fulfil the goal of improving the learning progression of schools (Report of the Review Committee on the Delhi School Education Acts and Rules 2012). Instead of the DoE inspecting the schools, a third-party inspection by an accredited agency is more likely to be effective (Report of the Review Committee on the Delhi School Education Acts and Rules 2012). The Office for Standards in Education, Children’s Services and Skills, (OFSTED) inspection model used in the UK may provide some lessons (Report of the Review Committee on the Delhi School Education Acts and Rules 2012). The OFSTED inspects all kinds of schools in the UK and it sets the statutory basis for inspection.

Assessing the Quality of Law-making in Delhi

In this section, we quantify state school education laws based on three aspects: word count, binding words and linguistic complexity. Together, these metrics indicate the regulatory burden a law imposes (Bedi, and Narang 2021). Bedi and Narang (2021) analysed 145 education laws in India in 2021, following are key findings from analysing education laws in Delhi:

1. **Word Count:** This metric checks for the average number of words per law. Higher word counts indicate more effort on the part of regulatees to acquaint themselves with the law. The average word count for education laws in Delhi is 5140, higher than the national average of 4936. ³⁸
2. **Binding Words:** Binding words like “deemed to be guilty” and “comply” signal the restrictiveness of the law. “Normalised binding words” refers to the level of restrictiveness in each law and measures the average number of words after which a binding word like “shall” or “prohibited” appears. For instance, a score of 400 would indicate that a binding/restrictive word appears after every 400 words. In Delhi’s school education laws, there are 33 binding words in total. The Delhi School Education Act of 1973 has a normalised binding word score of 384, while the Delhi Primary Education Act of 1960 has an even lower score of 233. A lower score indicates that the law is more restrictive.
3. **Linguistic Complexity:** By counting the number of syllables per word along with the length of the sentence, the metric measures the readability of the given text. A score between 0 and 100 is assigned to every law, indicating its readability level. A score of 0 means that the law is the most challenging to comprehend, while a score of 100 signifies that it is the easiest to understand. Delhi fares worse than the national average on the Flesch Reading Ease score. It has an average reading score of 7.5, much lower than the overall average of 33.66. Moreover, the Delhi Primary Education Act, of 1960 has a Flesch Card Reading score of 14, and the Delhi School Education Act, of 1973 has a reading ease score of 1. This makes the act extremely difficult to read and comprehend.

38 States include Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chandigarh, Chattisgarh, Daman and Diu, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Orissa, Puducherry, Punjab, Rajasthan, Sikkim, Tamil Nadu, Telangana, Tripura, Uttarnachal, Uttar Pradesh and West Bengal.



2

**How are schools in
Delhi performing?**

Status Check of Education in Delhi

Along with examining the regulatory framework governing schools, a comprehensive status check of education in Delhi must account for how different types of schools perform. This section studies how government, aided, and private unaided schools perform on key parameters such as enrollment trends, dropout rates, equity, infrastructure requirements, pupil-teacher ratio, teacher qualifications, and learning outcomes.³⁹

The onset of the pandemic disrupted K-12 education across India, including in Delhi. Schools were shut for ~85 weeks. With students unable to go to school and classes shifting online, the education system witnessed unprecedented changes. The lockdown resulted in reversing decade-long trends. For instance, while private school enrollment has been rising in India since 2011 (Kingdon 2017), in 2020-21 a significant number of students shifted from private to government schools (ASER 2021).

In Delhi, the effect of the pandemic can be seen in the change in the enrolment pattern of students, with as many as 2,20,789 students opting out of private schools and at least 42 private schools being shut down post-COVID. To take these changes into account, we compare the performance of schools in 2019-20 with that in 2021-22.

Further, to place Delhi's performance in the national context, we compare the state's performance with the national average on the parameters mentioned above.

³⁹ In the report the term "private recognised unaided schools" is used interchangeably used with "private unaided" or "private recognised". However, it does not include private un-recognised schools.



2.1

Trends in the student enrolment and dropout rates

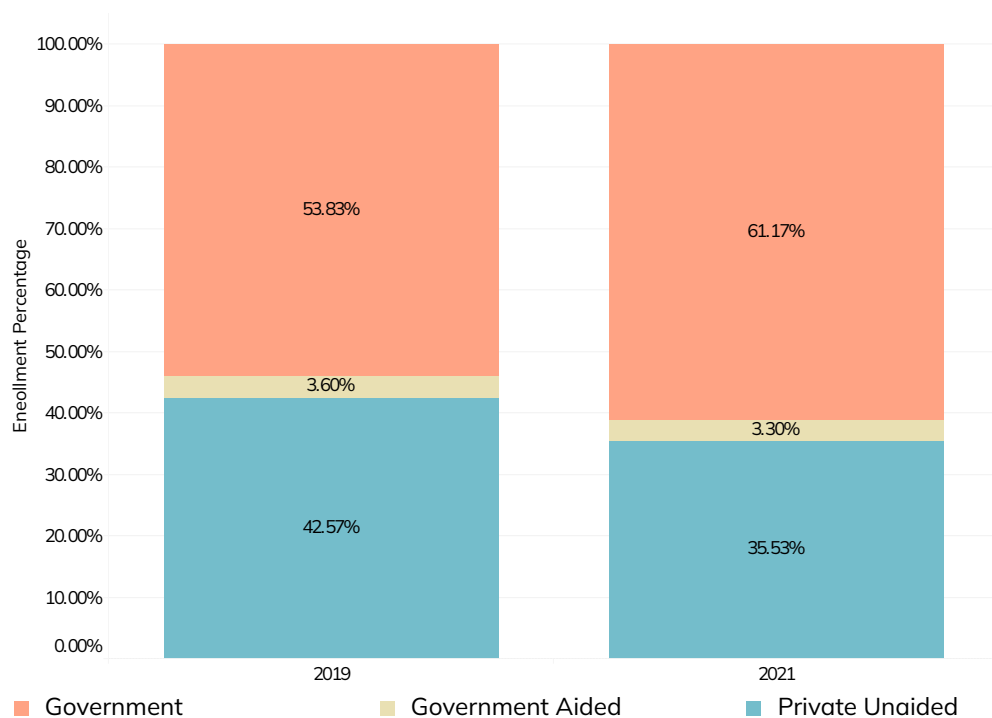
This section analyses and compares the performance of government, government-aided, and private schools on factors like total enrolment, transition rate, dropout rate, and net enrolment rate using the Unified District Information System for Education data. We analyse the data on these parameters across two years: 2019-2020 and 2021-22.⁴⁰

Student enrolment

Number of students enrolled in a school in a particular year

Per UDISE, as of 2022, 1,495,688 students are enrolled in private schools in Delhi. Nearly 2,20,789 students opted out of private schools between 2019-2022. There was a simultaneous increase in the number of students attending government schools from 23,09,819 to 26,72,901 (12% increase) within this period (2019-2022). ASER 2022 also notes the changing enrolment pattern post the pandemic, where students are moving from private to government schools.

Figure 1: Student enrollment pre- and post-COVID across schools



Source: UDISE+ Dashboard

40 This allows us to compare changes from pre- to post-COVID.

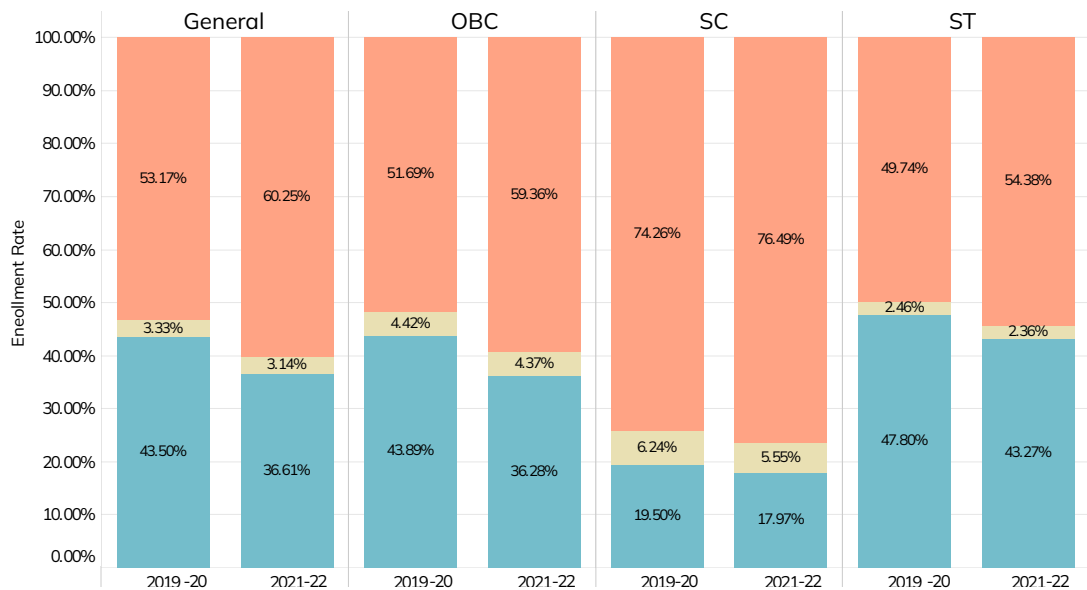
Several factors may have contributed to the fall in private school enrollment during COVID-19. Two key factors among these include the impact of the lockdown on income levels and private school closure. The average all-Indian household income fell by 44% between February 2020 and April 2020 (Consumer Price Index Household Survey, 2022). This may have reduced the capacity of parents to pay for private schools. reports suggests that in most schools there was a 20-50% reduction in the revenue of private school during COVID (Central Square Foundation 2021).⁴¹

Further, per UDISE, nearly 42 private schools shut down in Delhi from 2019-2022, bringing the number of private unaided schools down to 2,610 from 2,652. The closure of schools could be due to factors such as default school fee payments, inability to pay teachers, and drying up of school funds (Agarwal and Sharma 2020).

Enrolment across social categories:

We also review how schools fare on equity by analysing the proportion of students who attend government, private, and aided schools for each school category.⁴²

Figure 2: Enrolment across social categories as per management level



Source : UDISE Dashboard

41 To understand the impact of Covid 19 on finances and learning levels, the report analysed 20 states and union territories across India.

42 We will refer to four types of social categories in this report. These are the General, Other Backward Category (OBC), Scheduled Caste (SC), Scheduled Tribe (ST) categories.

Several scholars cite equity concerns for access to private schools (Bhatty et al 2022), our findings suggest that the proportion of OBC and ST students who attend private schools was similar to the proportion of General category students who attended these schools in both 2019-20 and 2021-22. Overall, this remains true before and after Covid as well. In 2019, the proportion of ST students enrolled in private schools was higher than compared to students from the other three categories. In 2021-22, while the enrolment in private schools dropped, this fall was similar across the OBC, ST, and general categories.

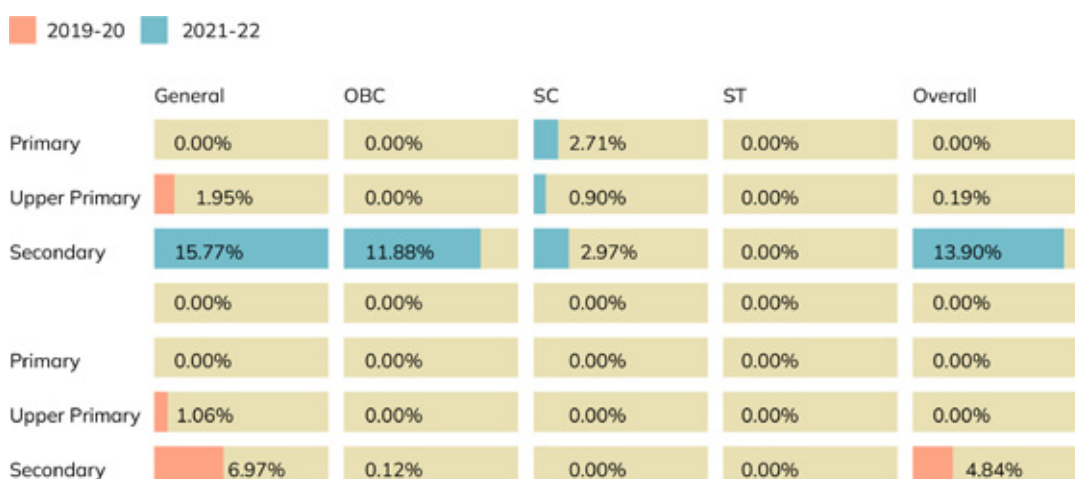
However, students from the SC category have a dissimilar enrolment trend compared to the enrolment trends of the general, OBC and ST categories. Across 2019-22, ~75% of the students (~ 3,00,000) in this category attended government schools and merely 17-19% (~82,602) attended private schools.

Dropout rates

The percentage of students from a cohort who were enrolled at a particular level in a given school year, and who are not enrolled in any grade in the subsequent school year.

Drop-out rates, across social categories, have significantly improved in 2021-22. Students from SC, ST, and OBC recorded nearly 0% dropout rates across all grades in 2021-22.⁴³ In the case of students belonging to the general category, in 2021-22 dropout rates were the highest at the secondary level (at 6.97%). This, however, fell from 15.77% in 2019-20.⁴⁴

Figure 3: Dropout rates across social categories



Source : UDISE Dashboard

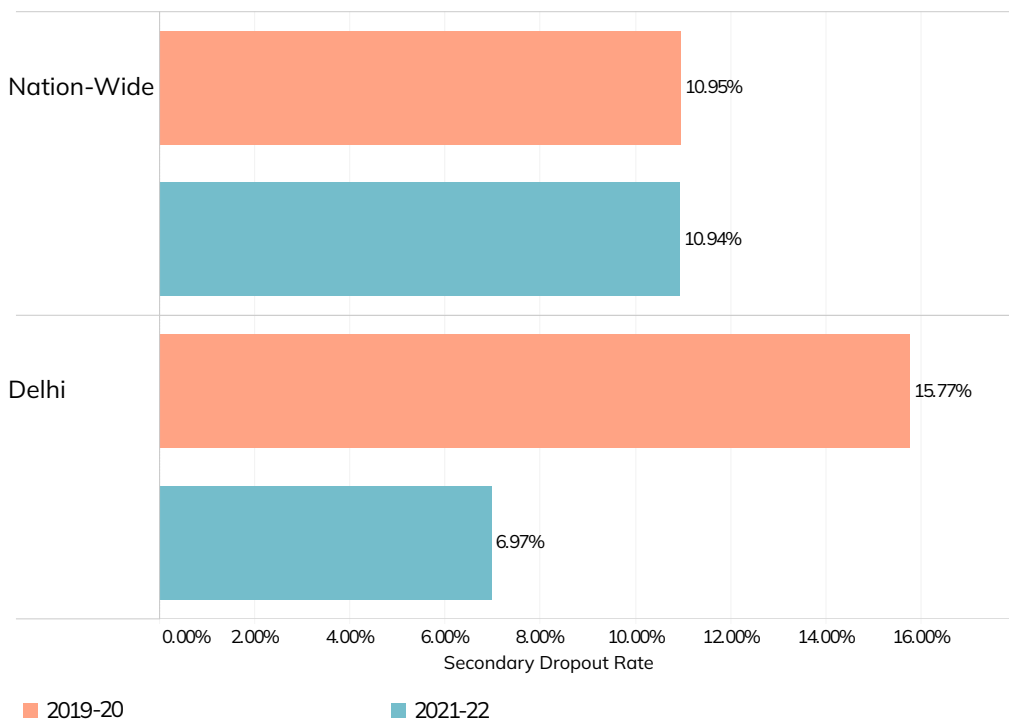
43 This is as per UDISE. It is possible that these numbers are under-reported or yet to be updated.

44 The drop-out of ST students is 0.0% throughout 2019-2022 which could be because the data in the UDISE dashboard might not have been updated. There are also limitations on getting data from other sites such as other sources Lok Sabha starred/unstarred questions which do not have this data available.

At the national level, on average, ST category students have the highest dropout rates (16.62%), while general category students have the lowest dropout rates (10.94%) at the secondary level. In Delhi, however, students from the general category have the highest dropout rates at the secondary level (6.97%).

Further, while the dropout rate of general category students at the national level has remained largely constant (10%), it has improved in Delhi by 8 percentage points.

Figure 4: Secondary Dropout Rate of General Category



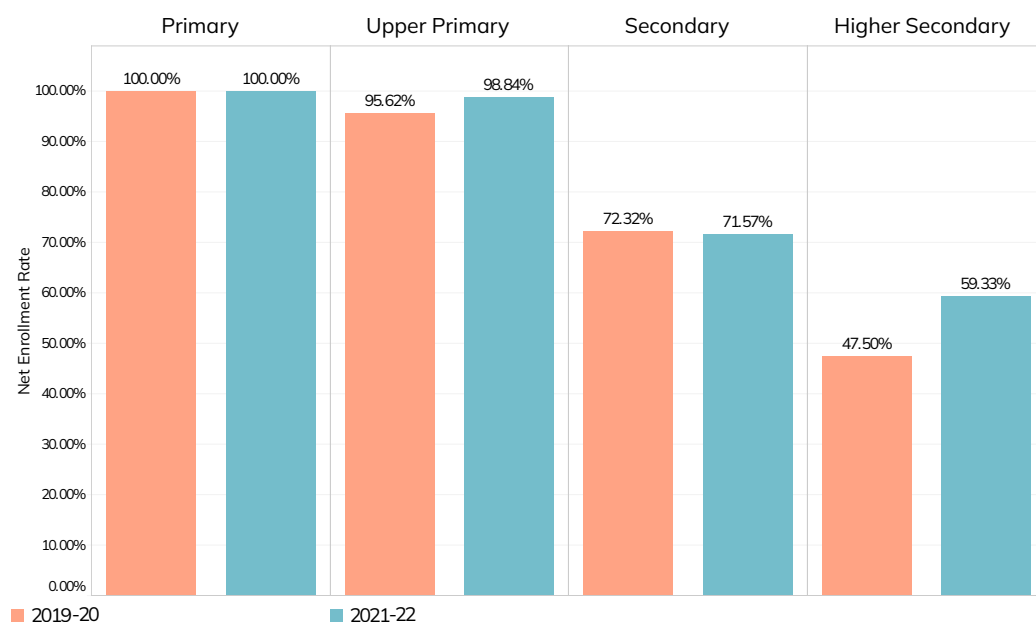
Source : UDISE+ Dashboard

Net Enrolment Rate (NER)

The percentage of children who are enrolled in a specific level of education and are of the official age for that level. It is calculated by dividing the total number of pupils in the official age group who are enrolled in that level by the total number of children of the official age group corresponding to the given level of school education in a school year.

While the NER in secondary and higher secondary grades is generally lower than that of primary and upper primary grades across years, it improved in 2021-22 (Figure 4). The improvement in NER was the highest at the higher secondary level, an increase of 24%. As of 2021-22, the NER in Delhi, across grades, is higher than the national average.

Figure 5: Net Enrollment Rate



Source : UDISE Dashboard

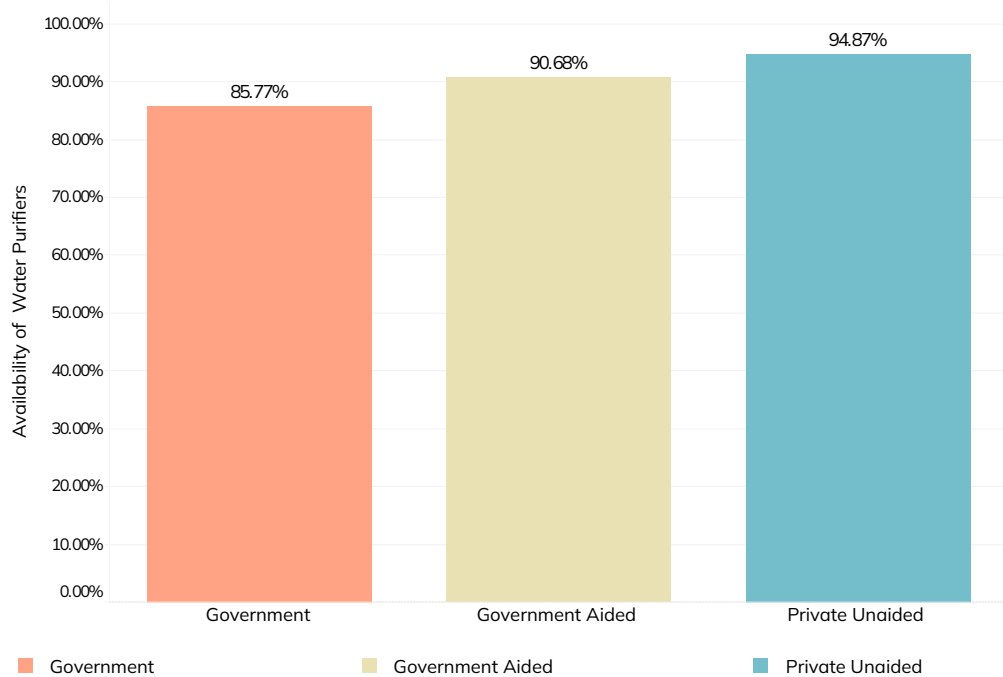
State of infrastructure

Availability of infrastructure

Availability of basic infrastructure such as functional toilets, water purifiers, internet and electricity

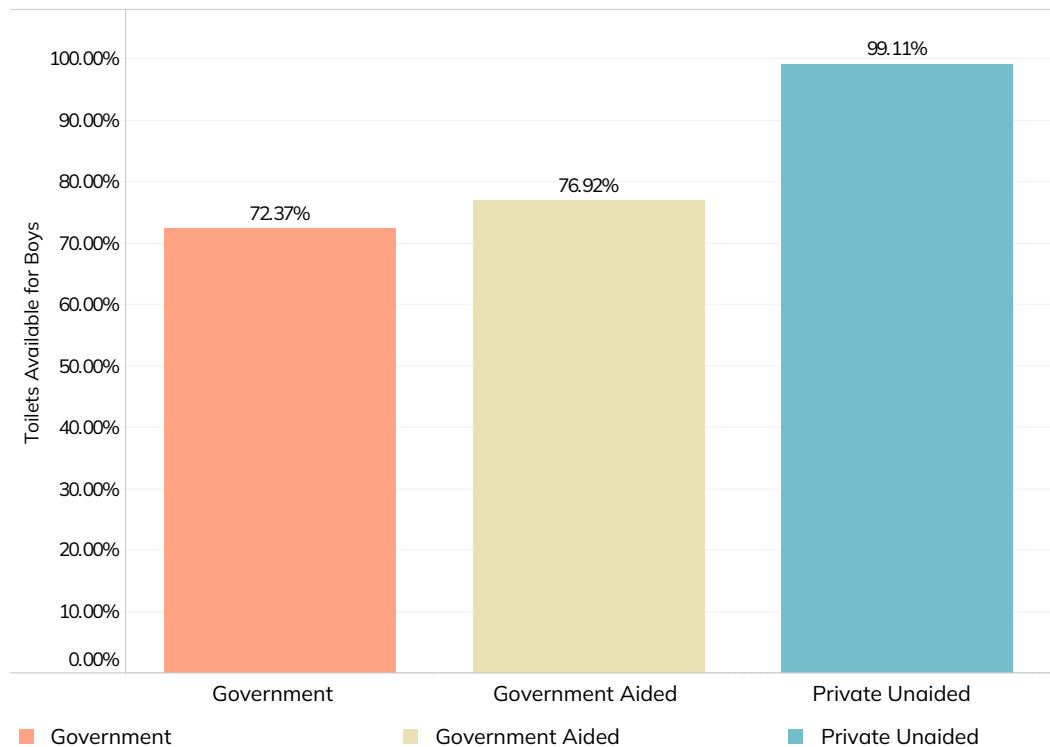
As of 2021-22, nearly 28% of government schools do not have functional toilets for boys, compared to less than 0.89% of private unaided schools.

Figure 6: Availability of Water Purifiers (in 2021-22)



Source : UDISE+ Dashboard

Figure 7: Availability of Toilets for Boys (in 2021-22)



Source : UDISE+ Dashboard

Further, ~95% of private unaided schools provide children with access to water purifiers. A lower proportion of government schools—~86%—provide access to water purifiers.

On other parameters such as providing access to the internet and computers, both private and government schools fare well, having 100% access.

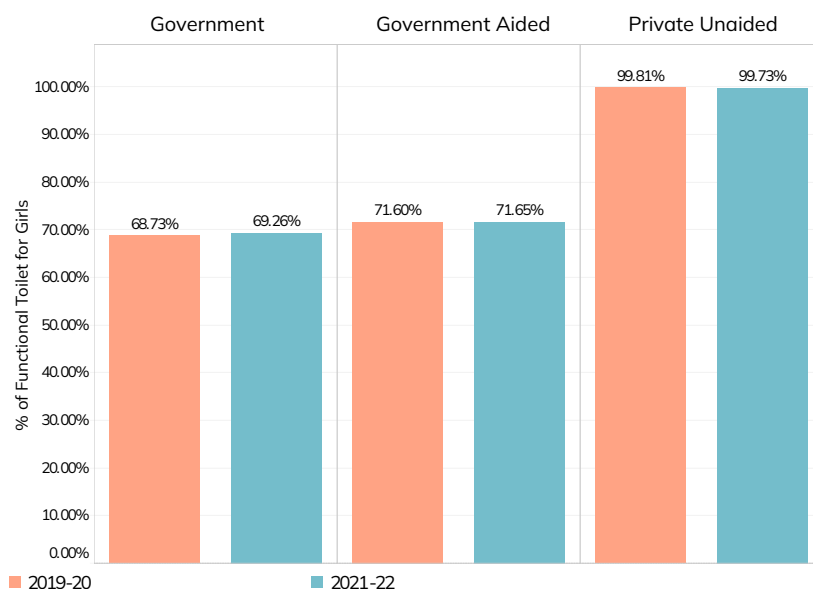
Infrastructural equity

Ensures that the vulnerable section of society has access to basic infrastructure support, regardless of their circumstances

As per the School Education Quality Index (SEQI), 2019 the two key indicators of infrastructure equity are access to toilets for girls and barrier-free access for children with special needs.⁴⁵ Below we compare how government, aided, and private schools fare on these two indicators.

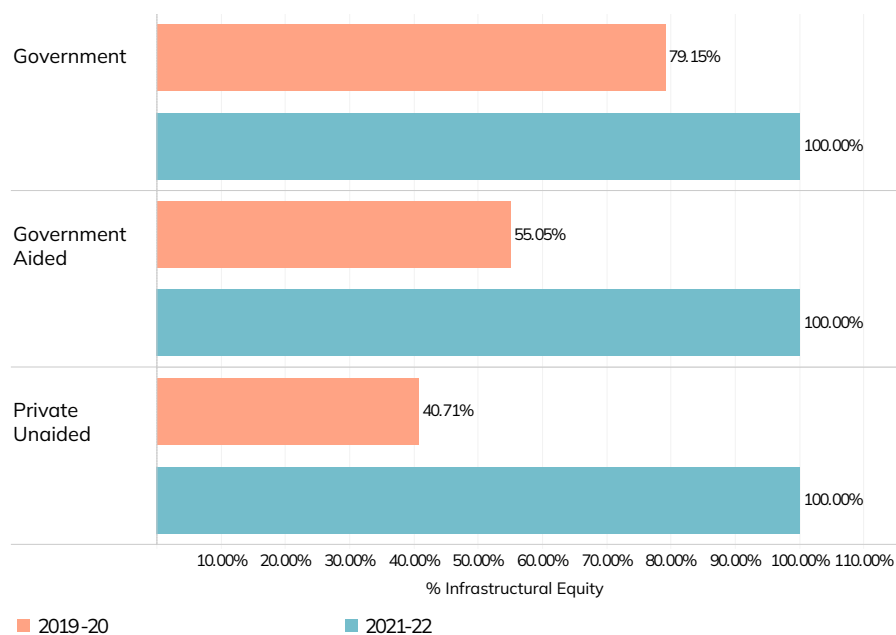
⁴⁵ SEQI, 2019 records the availability of toilets for girls and the aids and appliances received by Children with Special Needs in the classroom to make education accessible for them. Due to limited access to relevant primary data, in the report, we refer to the availability of ramps, rails for assessing how Delhi schools fare in providing barrier free access to education to CWSN.

Figure 8: Functional Toilet Available for Girls



Source : UDISE Dashboard

Figure 9: CWSN Facilities (Ramps, Rails)



Source : UDISE+ Dashboard

As of 2021-22, around 30% of government schools in Delhi did not have functional toilets for girls while almost all private unaided schools (99.73%) have them.

In the case of the provision of ramps and rails to assist children with special needs, there was wide variation across school types in 2019-20. However, as of 2021-22, all schools provide these facilities.

Teacher availability and qualifications

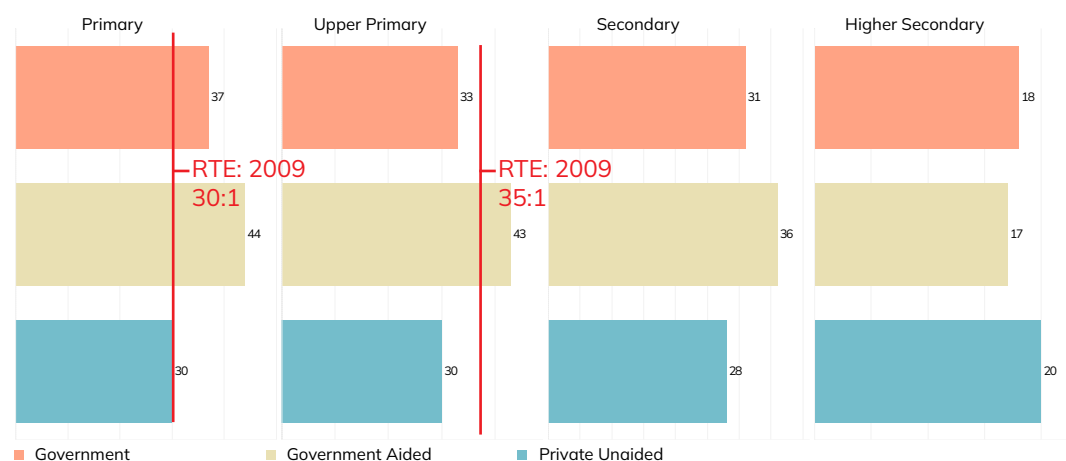
Pupil-teacher ratio (PTR)

Average number of students (who are at a specific level of education) that a teacher instructs during a given school year. It's calculated by dividing the total number of pupils at that level by the total number of teachers who teach at that level.

As per the RTE Act, of 2009, the Pupil-Teacher Ratio (PTR) for primary and upper primary schools is 30:1 and 35:1, respectively. In 2019-2020, the PTR in government (37:1) and government-aided schools (44:1) was worse than the ratio prescribed by RTE at the primary level (Figure 10).⁴⁶ In the case of private schools, the PTR was well below the prescribed levels in upper-primary grades (33:1) and equal to the prescribed level in the primary grade (30:1).

In 2021-2022, the PTR in government schools became worse.⁴⁷ At the primary level, the PTR is 40:1, second highest in the country after Bihar (60:1). At the upper-primary level in government schools, the PTR is the worst in the country, 39:1.⁴⁸

Figure 10: PTR across grade levels



Source : Lok Sabha Question No. 195 Answered on 2nd August 2021

⁴⁶ Lok Sabha, Starred Question Number 169 on 2nd August 2021.

⁴⁷ Lok Sabha, Unstarred Question Number 589 on 6th February August 2023

⁴⁸ U-DISE and the Lok Sabha questions does not provide PTR details for private schools in 2021-2022.

Teacher qualifications

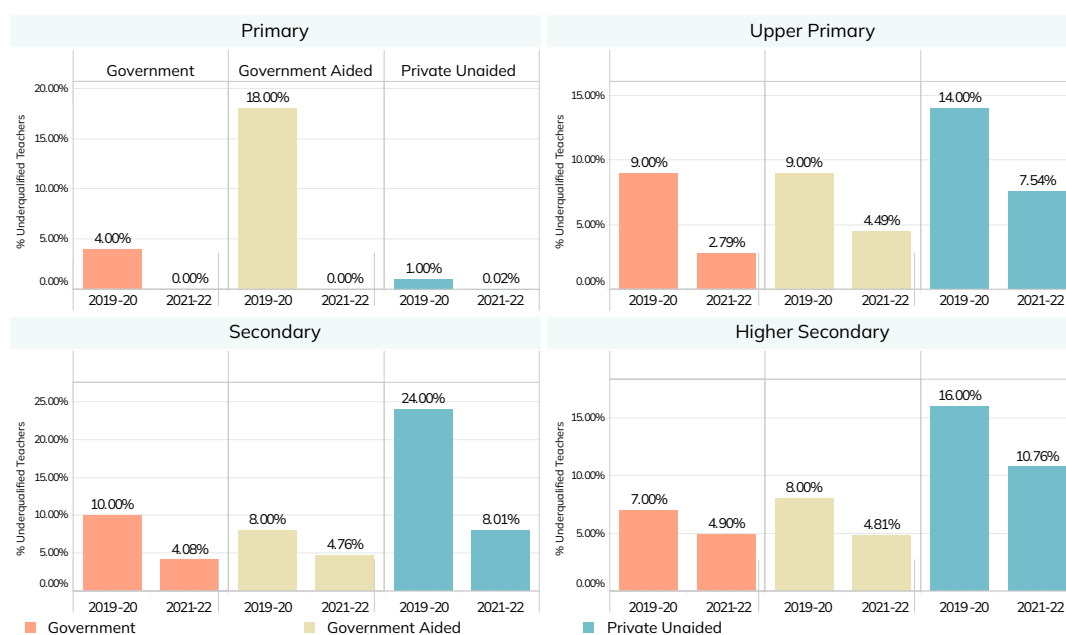
Qualifications specified by the National Council for Teacher Education (NCT) for teachers in each class

The proportion of underqualified teachers has decreased across all classes and school management types in 2021-2022 (Figure 11). For instance, in government schools, the percentage of underqualified teachers in secondary classes decreased from 10% in 2019-20 to 4.08% in 2021-2022, and from 24% to 8% in private unaided schools.

The higher secondary level has the highest percentage of unqualified teachers in 2021-2022 across various school management types. There are 4.90% underqualified teachers in government schools and 10.76% underqualified teachers in private schools at higher-secondary classes in 2021-2022.

In 2021-2022, the primary grade has the lowest percentage of underqualified teachers across different types of schools. Specifically, there are no unqualified teachers in government and government-aided primary schools. In private unaided schools, the percentage of unqualified teachers is just slightly above zero, at 0.02%.

Figure 11: Percentage of Underqualified Teachers



Source : UDISE Dashboard

State of Learning Outcomes

NAS 2021 gives a system-level reflection on the learning outcomes across all states and school management types. Based on our assessment of learning outcomes under NAS 2021, we find two key trends.

Higher learning outcomes in private unaided schools as compared to state/central government schools

In Delhi, the learning outcomes of students in private unaided schools are better than those in government schools (central or state) across all grades.⁴⁹ On average, 67.59% of students in private schools gave the right answers in language assessment compared to 47.9% of students in state government schools and 56.85% of students in central government schools. The same trend remains true for mathematics as well. On average, 44.25% of students in private schools gave the right answers in mathematics assessment compared to 31.58% of students in state government schools and 40.83% of students in central government schools. Across schools, the proportion of students who are at basic and below basic level is higher than the students at a proficient and advanced level in Delhi across all grades.⁵⁰ For example, on average, 74.8% of students are either at the basic or below basic level compared to 25.2% of students who are proficient or at the advanced level in grade 5 (NAS State Report Card 2021).

Figure 12: Students' Performance in Grade 3

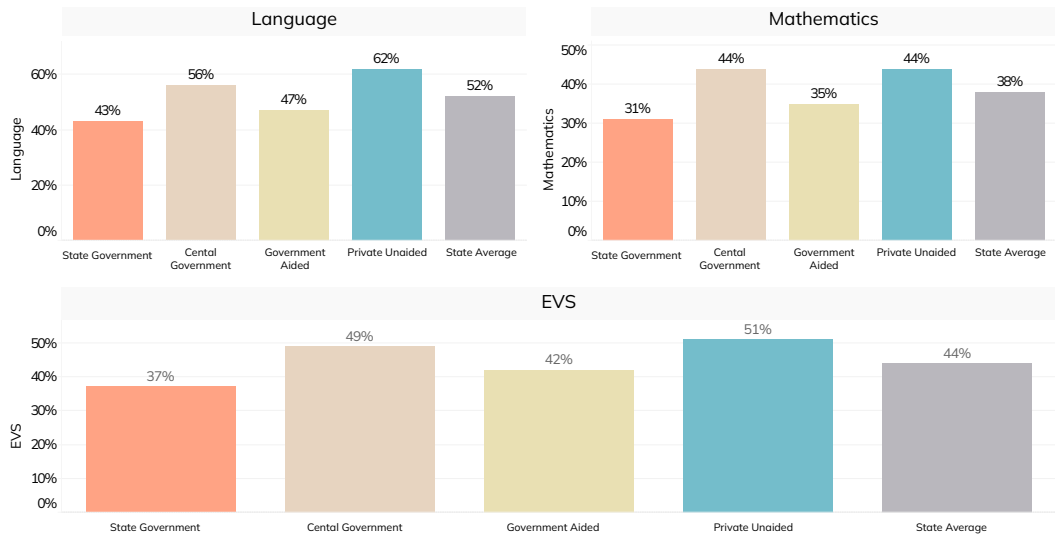


Source : National Achievement Survey

⁴⁹ The analyses is based on average calculation of English and Mathematics, common throughout different classes.

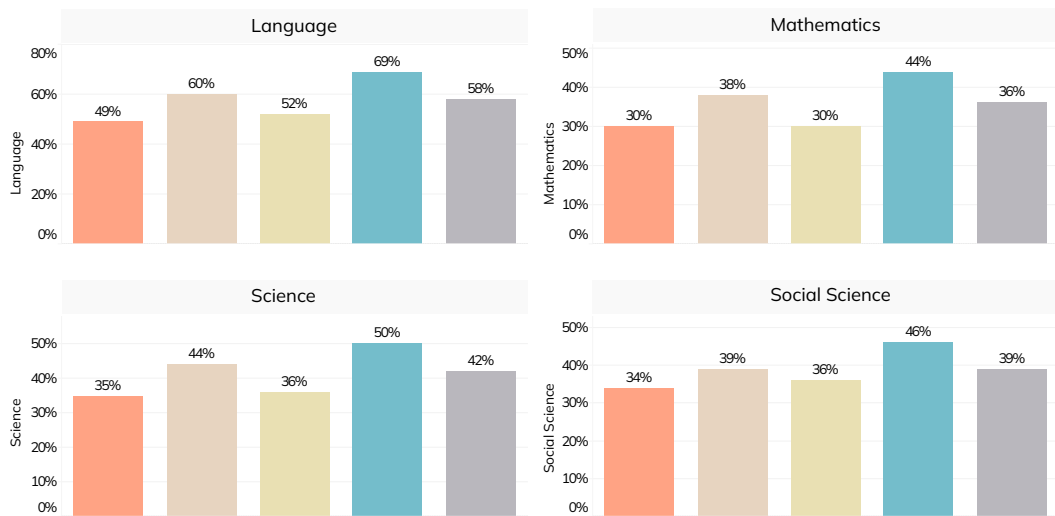
⁵⁰ Students at basic/below basic level demonstrate early-minimum stages of development. Students at proficient/advanced level have acquired most to exceptional mastery of the curriculum and beyond.

Figure 13: Students' Performance in Grade 5



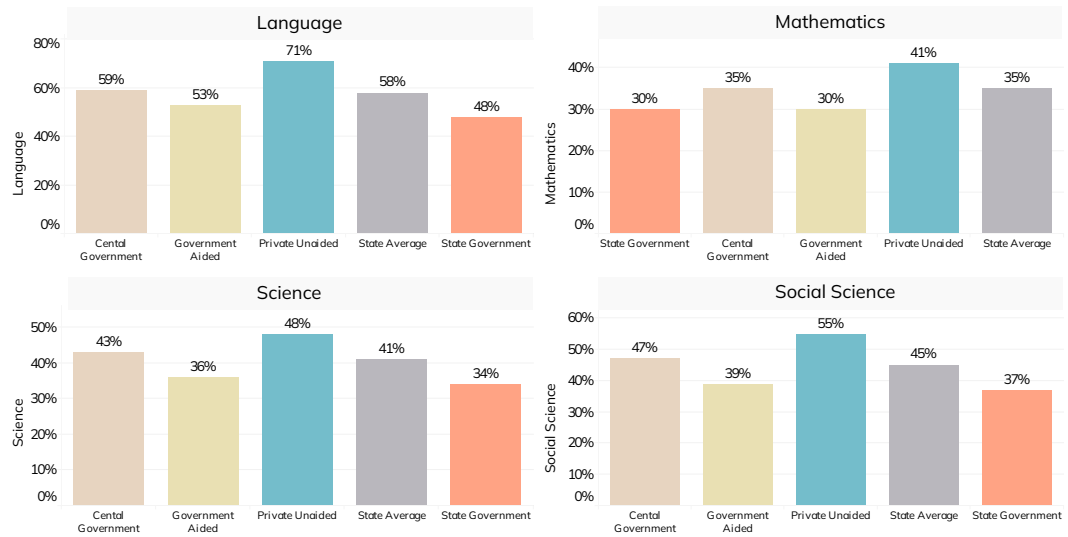
Source : National Achievement Survey

Figure 14: Students Performance in Grade 8



Source : National Achievement Survey

Figure 15: Student’s Performance in Grade 10



Source : National Achievement Survey

Decreasing cost-effectiveness of public expenditure on education:

The Government of NCT Delhi has allocated 23% of its total budget to education in 2022-2023, which is higher than the average allocation of 15.8% by other states (PRS India 2022). In 2016-2017, the government’s per-pupil expenditure was Rs. 50,812, which jumped to Rs. 69,736 in 2021-2022 (Economic Survey of Delhi, 2022-23).

Following is the table to show per-pupil expenditure on school education in Delhi:

Year	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
Expenditure (Per Annum in Rupees)	50812	56288	59730	66593	56223	69736

Source: Economic Survey of Delhi 2022-23

However, despite the rise in per-child expenditure, the learning outcomes in Delhi’s state government schools have continued to decline. The average performance of students in government schools in the National Achievement Survey (NAS) 2017 was better than their performance in NAS (2021). For example, in class 5, 44% of students in government schools gave correct answers in the NAS assessment in 2017 compared to 31% in 2021.⁵¹

51 The poor performance of students in NAS 2021 can also be viewed in the context of Covid-19 lockdowns where children’s learning was disrupted owing to shutdown of schools. According to ASER 2022, there has been a nationwide trend of decreasing learning outcomes owing to shutdown of schools.

To assess the Value For Money (VFM) of government spending on education, Kingdon et.al. (2016) compared the amount spent per student in different states with the learning levels of children in those states. The VFM provides an economic value for any increases in access to schooling resulting from increased public expenditure, along with assessing improvements in students' learning outcomes (Kingdon et.al., 2016). Between 2017 and 2022, the per-pupil expenditure in Delhi increased. However, during the same period, the VFM decreased. In 2017, the cost to achievement per unit for class 5 students was Rs. 1154, but by 2022, this cost doubled to Rs. 2050.⁵² The decreased VFM suggests that despite the increase in government spending, student learning outcomes have actually declined rather than improved. This situation indicates that the government's expenditure on education is not cost-effective. Despite the higher investment, the return in terms of improved learning outcomes has not been positive.

While the Delhi Education Model has been lauded by other state governments such as Maharashtra, the debate overlooks crucial questions regarding learning outcomes and the cost-effectiveness of public expenditure.

Learning outcomes based on social category

Learning outcomes of students from different social categories

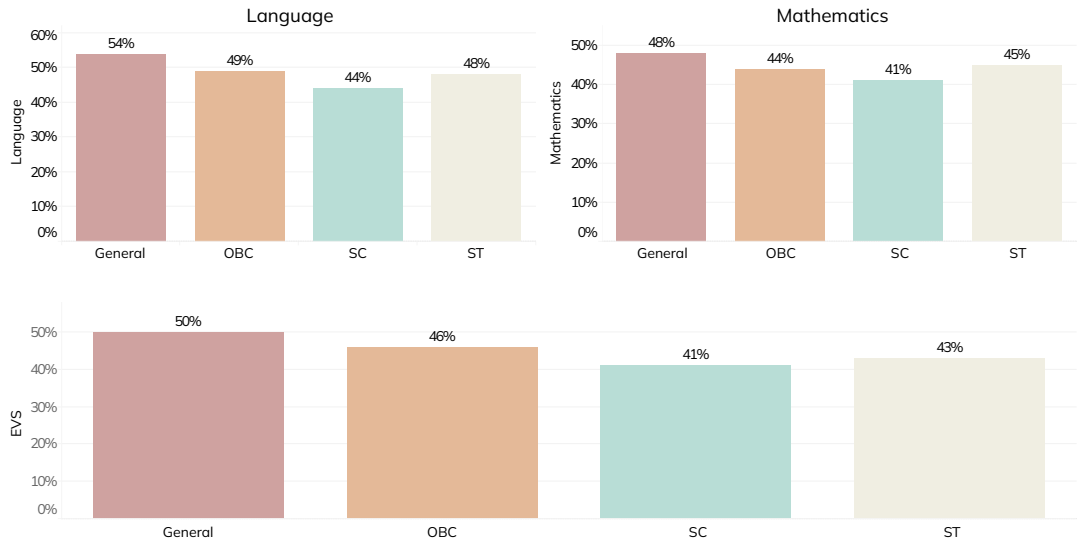
A comparison of learning outcomes of students across social categories, reveals three key trends:

- Across grades and subjects, there is only a marginal difference in the performance of students from general, OBC and SC categories. On average, around 38.44% of students from the general category, 36.25% of OBC students, and 39.95 % of SC students gave correct answers on the mathematics test administered by NAS (2021). The learning outcomes of ST students are relatively lower than other categories. On average, 35.43 % of ST students gave correct answers on the mathematics test administered by the NAS (2021).⁵³
- The learning outcomes of general category students in Delhi are lower than the national average in classes 3, 5, and 8 for language and mathematics. In class 3 language, while 54% of the general students answered correctly in Delhi, the national average is 64%. In class 5 mathematics, while 39% of general category students answer correctly in Delhi, the national average is 46%.

⁵² Cost of achievement per unit determines the cost incurred per pupil to achieve a (if any) higher learning level.

⁵³ The analyses is based on average calculation of English and Mathematics, common throughout different classes.

Figure 16: Student's Performance in Grade 3 across Social Categories



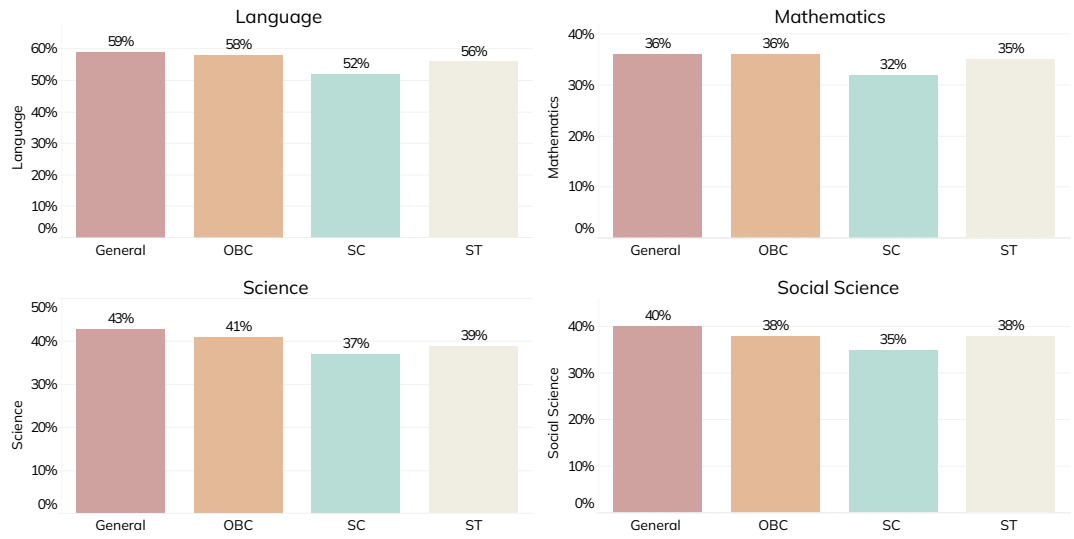
Source : National Achievement Survey

Figure 17: Student's Performance in Grade 5 across Social Categories



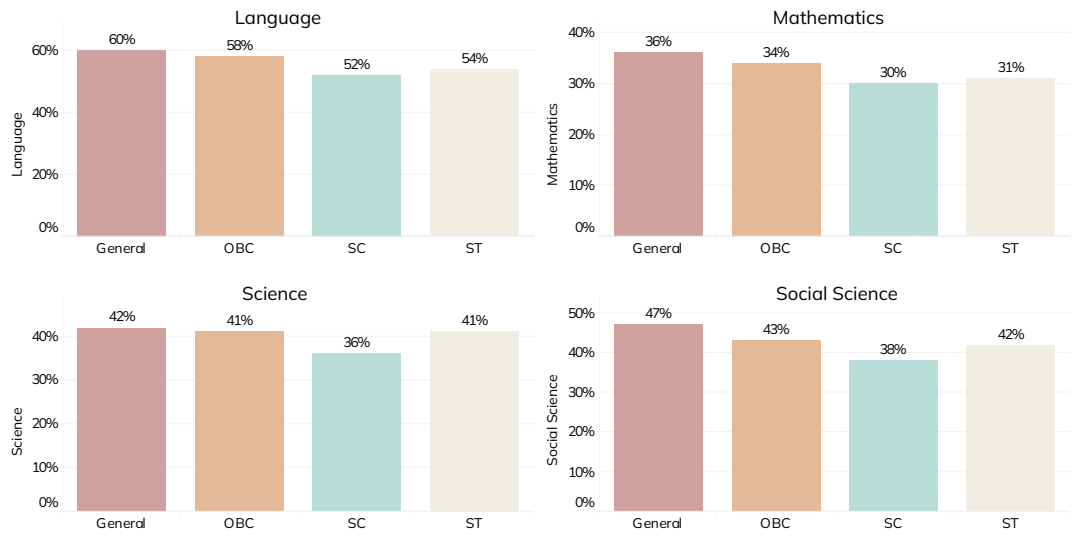
Source : National Achievement Survey

Figure 18: Students' Performance in Grade 8 across Social Categories



Source : National Achievement Survey

Figure 19: Students' Performance in Grade 10 across Social Categories



Source : National Achievement Survey



Conclusion

The report analyses the weaknesses and strengths of school governance in Delhi. It highlights the challenges in state legislation and the various ways in which it impacts school education. We find that the laws in Delhi are lengthy, voluminous and complicated. They also provide differential treatment to private and government schools and are ridden with conflicts of interest. To address these issues, the NEP 2020, recommends that states should have flexibility in deciding the recognition norms and calls to set up an independent regulator known as State School Standard Authority (SSSA) to regulate both private and government schools.

The report also discusses how different management school types in Delhi fare on various parameters such as enrolment, dropout, infrastructure, and learning outcomes. Per the U-DISE data, the pandemic has caused a major shift in the enrolment pattern of students. Nearly, 2,20,789 students have opted out of private schools since 2019 in Delhi. At least 42 private schools have shut down in Delhi since 2019-2022. However, on other metrics such as dropout rates and Net Enrolment rates, Delhi performs better than the national average. Further, private schools in Delhi have better learning outcomes than government schools across all grades. This is true even when the Government of NCT has increased its budget allocation to education to 23%. Such a higher allocation of the budget with lower learning outcomes decreased the value for money taxpayers get from the expenditure in education. These findings are essential in shaping policies which intend to improve the quality of school education in Delhi.

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