
ONLINE EDUCATION IS A BARRIER TO THE RIGHT TO EDUCATION IN RURAL INDIA

Shubh Jain, IFIM Law School, Bangalore

ABSTRACT

The Indian education system is still not developed in urban and rural regions. The midday meal is created to lure the kids into receiving education. Under these conditions, the government-enforced countrywide shutdown on March 25th, 2020, to combat COVID-19 has severely influenced the school sector. India has the world's second-biggest educational system, behind China. According to UNESCO, 63 million instructors were affected in 165 countries. A total of 1.3 billion learners throughout the globe were not able to attend schools or institutions, and around 320 million learners are impacted in India alone. It has shifted the old education system to the educational technology paradigm in which teaching, and assessments are performed online. The excellent and negative repercussions of COVID-19 on the Indian Education system are recognized.

This research paper seeks to examine the Impact of COVID-19 on the Indian Education System in rural India, emphasizing how well the government protected the Right to education under Article 21 (a) in Indian Constitution concerning online education in rural India.

1. Introduction

*"Literacy in itself is no education. Literacy is not the end of education or even the beginning. By education I mean an all-around drawing out of the best in the child and man-body, mind and spirit."*¹

- Mahatma Gandhi (Gandhi, 2018).

Education assists learning, or the acquisition of information, skills, values, morals, beliefs, habits, and personal growth. In April 2010, India came into force the Right of Children to Free and Compulsory Education Act, 2009, affirming the state's obligation to offer free and compulsory education to all children from six to 14 years. The statute resulted from Article 21A being put into the Constitution that declared primary education a fundamental right. As the rights-based framework was completed a decade earlier this year, primary education in government schools, particularly for children from rural regions and the urban poor, is seeing unprecedented times owing to obstacles presented by the new coronavirus epidemic. With schools shuttered owing to physical distance restrictions, instruction has gone online. However, internet-based learning genuinely is an option for students studying in Rural India, and can the education granted under the RTE Act realistically be offered to those who lack access to technology and the internet? The author has discussed the answer to the question in this research paper.

India faces many challenges concerning online education in rural India like Digital Illiteracy and No Infrastructural Support, Access to correct devices and cost of data for growing usage of content consumption, Inadequate Skills, Language barriers, and Gender Inequalities. India's position in online education in comparison to other countries is also not very convening, India has been rated 43rd among 64 nations according to the Switzerland-based Institute of Management Development (IMD). In covid 19 the unexpected closure of schools, colleges - and other learning places has had a far-reaching influence on the teaching-learning process throughout the globe, indicating a change from conventional educational methods to remote learning. This paper is an attempt to understand if the teaching-learning process through online education in India has been uninterrupted (as many would like to believe) or if the technology-enabled education process- a result of the need to innovate and implement an alternative mechanism- has brought out the existing digital divide in urban and rural India to the fore.

¹MAHATMA GANDHI, AN AUTOBIOGRAPHY, THE STORY OF MY EXPERIMENT WITH TRUTH. Boston :Beacon Press, 199.

The sequence of events following the initial wave of Covid-19 and before covid 19 has severely impacted an enormous Indian populace in education, especially concerning rural education, which tends to culminate in violation of various fundamental rights. In this paper, the author has discussed how the government has failed to provide education to children in rural India through E-Learning during covid times. Ultimately, the infringement of the right to education under Article 21 (a) Indian Constitution.

The author at last provides specific recommendations for the state to break the barriers of online education in rural India. Furthermore, protecting the right of rural children under Article 21 (a) of the Indian Constitution.

2. The problem of Online Education in Rural India.

For the great majority of the people living in rural regions, education is primarily reliant on government-run or aided schools and non-governmental groups. However, rural communities still confront different challenges that directly affect the country's literacy rate. The National Education Policy 2020 highlights digital learning as an alternative to the traditional classroom paradigm but implementing this in rural India may confront significant hurdles.. The contemporary Covid-19 problem has had a tremendous influence on the digital divide in the nation, notably from the standpoint of schooling with digital access. It has also thrown into harsh light the limitations for digital representation of education in the Tier III and rural parts of the nation.

2.1 What are the Problems of Online Education in Rural India?

The challenges of Online education in rural India are as follows: -

- **Digital Illiteracy and No Infrastructural Support:** A considerable section of the rural population falls short of the requisite internet bandwidth and expertise to identify gadgets and digital terminology. Another essential concern includes the lack of supporting infrastructure facilities such as a constant energy flow and the unavailability of high-speed internet.
- **Access to correct devices and cost of data for growing usage of content consumption:** While discussing digital learning, it is necessary to note the accessibility of accurate gadgets for each student to obtain digital material. In remote places, only a minimal fraction of individuals have the advantage of accessing laptops and computers.

Even pupils with access to computers and laptops cannot get the internet and the expenditures spent in the operation. Apart from that, the phone displays are not advantageous enough for lengthy studying hours. The data packages and their pricing also limit both professors and students from moving forward with live sessions. However, subsidizing telecom providers' learning data plans might be an effort to address this current divide.

- **Inadequate Skills:** The lack of skills among the instructors of the rural regions to run digital platforms is another significant problem impeding the growth of digital education. As the instructors lack the requisite skills to utilize digital platforms, they are hesitant to use these teaching techniques.
- **Language Barrier:** Almost 85 per cent of the people living in India do not speak English. The lack of availability of standardized material in Hindi and other regional languages creates a sluggish pace of future online course uptake. Standardized digital resources encompassing every primary curriculum from K-12 to higher education level sounds far-fetched. Curation of any excellent information from open sources would compound the expenditures and will demand the Government's concerted effort. The material also has to be re-contextualized from a blended learning viewpoint.
- **Gender Inequalities:** The prevalence of online learning amongst the female population in the rural portions of India is much more onerous. Like other domains, the internet and literacy in rural India are primarily accessible to males.

2.2 India's position in Online Education in comparison to other countries

The Switzerland-based Institute of Management Development (IMD) produces a World Competitiveness Ranking of major economies.² India has been rated 43rd among 64 nations. Among the five BRICS economies equivalent to India, China is ranked 16th rank, Russia 45th rank, Brazil 57th rank, and South Africa at 62nd position. More notably, India was ranked at 41st position in 2016. We then dipped to 47th place in 2017, it rose back to 43rd rank in 2018 and has stayed there in the previous two years. Another Global Competitiveness Index of 141 nations is prepared by the World Economic Forum (WEF) (WEF).

²India case study, UNESCO, October 2021, followed by [India Case Study.pdf \(unicef.org\)](#)

2.3 Detail analysis of Online education during Pandemic

Before the COVID-19 shutdown in India, no one expected that the face of the Indian educational institutions could alter so significantly. Schools that never permitted pupils to carry an electronic item morphed become learning hubs for online programs. Both instructors and pupils are growing acclimated to this new normal, which is more demanding for the teachers to manage with this circumstance. The instructors also experience issues in designing successful courses and changes in teaching when transferring to online learning; this may also be overcome via seminars and training. According to the leading indicators of Household Social Consumption on Education in India study, based on the 2017-18 NSSO, less than 15 per cent of rural Indian households have an internet connection (as compared to 42 per cent of urban Indian households) (as opposed to 42 per cent urban Indian households).

Access to the availability of learning resources and activities

- Only 36 per cent of all enrolled students got learning materials or activities from their teachers: 37 per cent of children in higher grades (Grade 9 and beyond) received learning materials, compared to 31 per cent in lower classes (Grades 1–2). These percentages were consistently higher for pupils in private schools compared to government schools across all grades.
- Among those who did get study materials, 67 per cent of government school kids and 87 per cent of private school students got them via WhatsApp. Government schools tended to employ phone calls and personal visits more frequently than private schools.
- Of the enrolled children who didn't get any learning materials, 68 per cent of parents mentioned schools not delivering resources, while 24 per cent of families reported not possessing a smartphone as the cause. This figure was about 5 per cent higher for government institutions than private schools.

3. Constitution Provision on Right to Education

Initially, the right to education was not included as a fundamental right in the constitution. It was included as a directive principle under "Article 45, which required the state to endeavour to provide, within ten years from the commencement of the constitution, free and compulsory education for all children until they complete the age of 14 years." The command in Article 45 was not restricted solely to primary school; it extended to giving free education up to the age of 14 years, whatever the level of education it got to. Therefore,

education for children of this age group should have been free, ideally speaking at the latest by 1960; nevertheless, only fitful attempts were made by some states to adopt certain legislation states to make laws according to article 45.³

3.1 Brief of 88th Constitutional Amendment.

The Constitutional Amendment is made with regards to protecting the citizen's rights to education, as well as knowing the challenges in India regarding education; 86th Amendment act 2002 makes three exact provisions in Constitution to facilitate understanding of free and compulsory education to children between the age 6 to 14 years as a Fundamental Right. These are as follows:-

- Adding Article 21A in part III, every child has a right to full-time elementary education of satisfactory and equitable quality in a formal school that satisfies certain essential norms and standards.
- Bring alteration and modification in Article 45 and substituted as the state shall endeavour to assure early childhood care and free and compulsory education for all children until they complete the age of 6 years.
- The insertion of a new clause in Article 51 A mandates the parents or guardians to provide opportunities for their children's education between 6 to 14 years. [Article 51A (k)].

3.2 Detail analysis of the Right to Education concerning the Right to Life and its constitutional value in the Indian Society.

In *Unnikrishnan JP v State of Andhara Pradesh*⁴, Supreme Court implied the right to education from the right to life and personal liberty guaranteed by Article 21.

The Supreme Court inferred the “Right to Education” as a fundamental right from Article 21. The term “LIVING” has been considered to encompass “EDUCATION” since education fosters decent and dignified life. The topic emerged for the first time before a two-judge panel of the Supreme Court in *Mohini Jain v State of Karnataka*⁵. In this case, the court agreed that the Constitution does not explicitly guarantee the Right to education. As a Fundamental Right.

³ Assam, Andhra Pradesh Bihar, Chhattisgarh, Goa, Gujarat, Haryana Himachal Pradesh, Jammu and Kashmir, Karnataka Pradesh, Maharashtra, Orissa Punjab, Rajasthan, Karnataka, Tamil nandu comma Uttar Pradesh west Bengal.

⁴ *Unnikrishnan JP v State of Andhara Pradesh*, AIR 1993 SC 2178,2231 ;(1993) 1 SCC 645.

⁵ *Mohini Jain v State of Karnataka*, AIR 1992 SC 1858; (1992) 3 SCC 666.

However, reading cumulatively Article 21 together with the Directive Principles contained in Articles 38,39(a),41, and 45, the Court ruled that “it becomes evident that the framers of the Constitution made it necessary for the state to provide education for its citizens.”

The Court argued that without making the Right to education under Article 41 a reality, the Fundamental Rights would remain beyond the reach of a large majority which is illiterate; the fundamental Right including the freedom of speech and expression and other rights guaranteed under Article 19, cannot be fully appreciated, and thoroughly enjoyed unless a citizen is educated and is conscious of his individualistic dignity. Further, “LIFE” in Article 21 denotes the Right to live with human dignity. “Right to Life” is the compendious phrase for all those rights essential to the dignified enjoyment of life. Thus determined the court “the right to education derives immediately from the right to life,” and that the “right to education” being contemporaneous to the fundamental Right, “the state is under a constitutional responsibility to offer educational institutions at all levels for the benefit of the citizens.” Therefore becoming online education as a barrier to children of Rural India is not an infringement of the right to EDUCATION but also an infringement of the right to LIFE.

3.3 Right of Children to Free and Compulsory Education Act, 2009 and the State's obligation

The sequence of events following the initial wave of Covid-19 has severely impacted an enormous Indian populace in diverse ways, culminating in the violation of various fundamental rights. The State has failed to ensure the right to livelihood, the right to efficient healthcare, and most significantly, the right to life. The situation of the right to education is no different. Given the government's unsatisfactory, if not catastrophic, action plan, it is not unexpected that even after more than 2 years, the Ministry of Education has not been able to develop a relatively complete or consistent reform concerning E-learning.

The Right of Children to Free and Compulsory Education Act (RTE), 2009 is the legal result of the mandate established by Article 21-A. The Act came into effect in 2010 and provided for full-time obligatory primary education of good quality meeting certain essential norms and requirements set by the Act. By incorporating Article 21-A and enacting the RTE, India fulfilled its long-due obligation under Article 45 of the Constitution, which provides that the State shall endeavour to provide, within ten years from the commencement of this Constitution, free and compulsory education for all children until they complete the age of fourteen years.

- In *State Of T.Nadu & Ors v. K Shyam*⁶Sunder, the Apex Court remarked that a child's right should not be confined to free and compulsory education but should be expanded to receive an excellent education without discrimination based on their economic, social and cultural background. Therefore it states an obligation to see whether any children in rural should not face any discrimination concerning online education based on their economic, social and cultural background.
- In *Faheema Shirin. R.K v the State Of Kerala*⁷, the Kerala High Court remarked that the right to have *internet access* is an element of the right to education. Therefore, providing internet access to the children of Rural India for their online education is the obligation of the state.
- In *Environmental & Consumer Protection Foundation v Delhi Admin*,⁸the supreme court decides the right of children of primary school and the right to necessities/facilities obligation and duty of states/UTs in view section 8 and section of RTE act. The world *necessities/facilities* also include technical support by the state for online education for the children of rural India during the covid 19.

4. What does the Government stand on providing Online Education in Rural India?

The Government of India has made many steps from April 2020 to kick start online education and boost it, especially in rural India. Initiatives like PRAGYATA Guidelines on Digital Education, Internet access under the BHARAT NET program, etc., have been created. PM eVIDYA is one such comprehensive program that unites all initiatives linked to digital/online/on-air education to offer multi-mode access to education. The effort involves various other programs, including DIKSHA, SWAYAM, etc (India, June 2020). However, the beneficial benefits of these activities have yet to be demonstrated and wholly studied, because, in 2018, only 23.8 per cent of households across India had internet facilities, according to the government's Key Indicators of Household Social Consumption on Education in India.⁹ States such as Odisha, West Bengal, and Karnataka have less than 9 per cent of rural households.

Moreover, there is a significant gender divide: 25 per cent of Indian guys can utilize the internet, but only 14.9 per cent of girls can. The number of people with mobile devices accessing the internet is also insignificant. The Broadcast India Survey 2018 shows that India's

⁶ *State Of T.Nadu & Ors v. K Shyam* AIR 2011 SC 3470, JT 2011 (9) SC 166, 2011 (8) SCALE 474

⁷ *Faheema Shirin. R.K v the State Of Kerala* WP(C).No.19716 OF 2019(L)

⁸ *Environmental & Consumer Protection Foundation v. Delhi Admn.* (2012) 10 SCC 212

⁹ Rana banu, *Covid-19 And The Education System*, LEGAL SERVICE INDIA E-JOURNAL.

1.3 billion citizens hold barely 300 million cell phones. Such terrible capacity to use the internet is sure to adversely damage the learning curve of pupils in government schools if an internet-only strategy is implemented. Moreover, governments cannot take it for granted that parents give their children the equipment required to access learning materials through the internet. For parents earning minimum wages, sending children, particularly females, to school has always been a challenging option. The additional burden of providing a smartphone or a device with internet access may push them to the brink and result in their children's irreversible and premature withdrawal from the public school system.

Under Section 3 of the RTE Act, "free education" implies that no children – other than a child who has been admitted to a school that the government does not support – shall be liable to pay any fees or charges, or expenses that may prevent them from pursuing and completing elementary education.¹⁰

The word "*obligatory education*" places a responsibility on the relevant Central or state government, under Section 8 of the RTE Act, to offer and guarantee compulsory admission, attendance, and completion of primary education for every child of the age of six to 14.

5. Recommendation for providing online education in rural India and ensuring Right to education.

5.1 Reduce the digital divide

Central and state governments should explore numerous options to lessen the digital gap, notably for teachers and students, by boosting access to fast internet and technical gadgets. Options include:

- Partnering with mobile network providers to deliver free or discounted data for educational purposes to teachers and low-income and vulnerable families.
- Adding digital services to social security programs such as rations/direct-benefit payments to families.
- Setting up hotspot facilities in places with the inadequate connection.
- Deploying gadgets at the community level (e.g., Smart TVs in Uttar Pradesh) to enhance distance learning.

¹⁰ Rohan Deshpande, *As classes go online, how can the Right to Education be guaranteed for students without net access?* THE SCROLL. IN, July 16,2020

5.2 Upskill instructors for e-learning

Investing in instructors and giving them continual assistance to be able to give e-learning and distance education to all their pupils during school closure (and after that) via a mixed type of instruction:

- Create a clear concept of ‘tech-savviness’ and improve teachers’ competence in remote learning via technology. A teacher requires more than access to digital classrooms to give excellent digital education.
- Ultimately all instructors should be computer-savvy if all students benefit from the fast rise of ICT-based education alternatives. Continuous professional development training needs to incorporate how to successfully utilize the enormous amount of internet resources for classroom teaching.
- Critically analyze the content of government and commercial applications such as MITRA, DIKSHA, and EkStep Genie and how they connect to or support professional teacher training.
- More research and continued monitoring are necessary to determine how instructors who participated in training programs translated their learnings in digital classrooms. There is a danger that instructors misconstrue digitalization as the audio-visual depiction of textbook information.

6. Conclusion

There is vital material proving that the epidemic has caused significant disruptions to education, especially for socially and economically underprivileged youth. Given that the epidemic could potentially continue to interrupt our everyday lives for years to come, governmental action in terms of creating technological infrastructure consistent with the needs of social justice in the education sector is the need of the hour.

The State cannot go on ducking accountability in this apparent infringement of the right to education. Targeted efforts are essential to reinforce socio-economic disparities impacting the

While the government of India and the Ministry of Education has doubtlessly taken several measures to handle the situation at hand, what appears to be clear is the fact that the social-economic facts that exist and affect the education sector of India are too extensive to fade away

at the hands of such short-term strategic initiatives and are bound to leave a large section of students, especially in rural India untouched by their benefits.¹¹

Given that e-learning has become the new normal, it is the government's job to come up with different policies, making the state governments equal actors in the process. The likes of Shyam Sunder and the recent approach of courts to recognize the right to have internet access as a part of the right to education has created a further obligation on the State to ensure that the right to education is not crumbled down under the existing and widening digital divide in India.¹²

An essential subject in this context focuses on a critical issue- how can the adverse effects of distance learning be handled in a society like ours? The potential of technology-enabled education is immense, but the government has to convert the difficulties into opportunities by bridging the digital divide if India meets the promise of e-learning.

To begin with, catching up measures have to be designed and performed, taking in mind the peculiarity of the socio-economic disparities and the structure of our education system lest the reality of the post-pandemic world damage the indicators of education and mental health of youngsters in India.

¹¹ *Supra 10*

¹² Nida Khanam, *Learning & the fate of Right to Education in India*, BAR AND BENCH, 31 May, 2021

References

- India Report- Digital Education, June 2020, Department of School Education and Literacy, Ministry of Human Resource Development, Government of India, New Delhi. [India_Report_Digital_Education_0.pdf](#). (India, June 2020).
- UNICEF Report, India Case Study Situation Analysis on the Effects of and Responses to COVID-19 on the Education Sector in Asia, July 2021, [India Case Study.pdf](#) (unicef.org)