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Access denied: Right to Education in India during Covid-19

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After decades of gradual but steady progress in educating more children across the globe, the year 2020 marked the sudden halt of that development. A record-breaking 1.4 billion children were barred from attending pre-primary, primary, and secondary schools in more than 190 nations by the end of April, as part of a global attempt to contain the spread of the new coronavirus. As the pandemic continued, schools in some countries or jurisdictions reopened for in-person instruction or reopened for some students, whereas schools in other countries or jurisdictions have remained closed ever since, with learning taking place to a greater or lesser extent online or in other remote locations. The traumatic consequences of the Covid-19 epidemic are experienced disproportionately by socioeconomic groups who are already marginalised in society. Because of a countrywide full lockdown in March 2020, all educational institutions throughout India were forced to transfer their operations to online and remote learning modalities, exacerbating the already substantial disadvantages that rural Indian students already faced. This article provides a brief analysis of how the right to education is affected during the covid pandemic.

Keywords: *education, covid, digital education.*

INTRODUCTION

Despite all preparations and claims for healthcare and infrastructure built by the states and other agencies, the mode of defending operation from Covid-19 was likely insufficient and inactive. The traditional education system of our country got struck by this unforgotten

situation, through which the rural education system and its role in imparting knowledge to the physical class-based system are highly affected, due to lack of smartphones among the economic weaker section, poor quality of internet connectivity, lack of basic information for operating the smartphones that have imbalances the right to access education in a real sense, it is just because of unpreparedness by the government before national lockdown and a situation that emerged led all sector in frozen stage and resulted from a heavy economic loss of the country which could reshape after taking a long time for it. Through open distance learning and any educational application is no doubt become a way to provide informative education medium to an urban class of people but not adequate in a rural area of society. There are few important provisions which regulate educational rights in India the first important is that the right to education is a fundamental right; this right comes under **Article 21**, But this right is not in the status of absoluteness, this is to be presented concerning **Articles 41 and 45** of the Standards, and this right comes directly under the economic capability and development of the states.

On another hand, the State must follow the constitutional ideology for the social and welfare nurturing and betterment of the citizens of this country. Right of Children to Free and Compulsory Education Act, 2009 seeks to give effect to this amendment. "All children between the ages of 6 to 14 shall have the right to free and compulsory elementary education in a neighborhood school." The landmark judgment of the Supreme Court of India, *Mohini Jain and Unnikrishnan v. State of Andhra Pradesh* ruled that "the right to education is a fundamental right that flows from the Right to life in Article 21 under Indian Constitution."

IMPORTANCE OF RIGHT TO EDUCATION

At both individual and societal levels, education is widely acknowledged as the finest source of social mobility, equality, and empowerment. It is also seen as a prerequisite for a thriving society. As a result, education must incorporate harmony, human rights, and democratic values which are basic constituents of social growth. The following is stated in the provisions:

Article 21-A of the Indian Constitution, which was adopted by the Constitution (Eighty-sixth Amendment) Act, 2002, establishes free and compulsory education as a Fundamental Right for all children aged six to fourteen years in such a manner as the State may prescribe by legislation.¹

Everyone has the right to an education. At the very least, education at the primary and secondary levels should be free. Basic education must be widely available, and higher education must be provided to everybody on a merit-based system.

Human personality development, as well as the promotion of human rights and fundamental freedoms, must be the goals of education for all. It will promote international understanding, tolerance, and fraternity among all nations, races, and religions, as well as peacekeeping efforts.²

Maulana Abul Kalam Azad, India's freedom fighter and first education minister, campaigned for a liberal and humanistic education policy which would contribute immensely towards the progress and prosperity of the country. This was neither a complete extension of royal modernity nor a return to feudal progressivism. This education policy was planned to release the potential and capability of India's civilization through a method of intellectual decolonization, illustrated on progressive concepts from India's "renaissance" and independence struggle within the Indian "renaissance" and its nationalism. Unfortunately, this type of unfinished agenda has been dropped by successive governments over the last three decades. It has been replaced by an educational curriculum that encourages cultural and intellectual imperialism while putting commercial profit ahead of public goods.³

EDUCATION SYSTEM DURING PANDEMIC AND ITS PROSPECTS

¹ J N Pandey, *Constitutional Law of India* (55th edn, Central Law Agency 2020)

² Pranati Panda, "Human Rights Education in Indian Schools: Curriculum Development" Human Rights Education in Asian Schools' <<https://www.hurights.or.jp/archives/pdf/asia-s-ed/v04/11panda.pdf>> accessed 03 June 2021

³ India Today's' Web desk, 'Rural India: The key to propel education in India' (India Today, March 3, 2021)

Covid-19 presented India's education system with a never-before-seen challenge. All schools and other educational institutions were closed when the nationwide lockdown went into force on March 22nd. Covid-19's interruption of schooling harmed rural India, where Due to a lack of sufficient digital infrastructure support, students were unable to follow the rules.

Both students and teachers confront several problems throughout online education. There were significant difficulties occur while connecting from homes, including a lack of fundamental conveniences, external disruption, and family interruption throughout instruction. Lack of money for modern technology acquisitions was one of the challenges faced by educational institutions as well as a lack of training, technical assistance, and clarity and direction. Teachers too had to deal with mechanical complications, problems were classified as a lack of technological help, which includes a lack of proper infrastructure, lack of skilled for online teaching platforms, Lack of technical skill among teachers is reducing their engagement in online teaching points, which may be considered as beneficial outcomes.⁴ Almost 20% of rural schoolchildren do not have textbooks at home within the sixth month of school cancellations across the country due to COVID-19. Only 35% of pupils in Andhra Pradesh had textbooks, whereas only 60% of children in Rajasthan had textbooks. More than 98 percent of students in West Bengal, Nagaland, and Assam had textbooks.⁵

There was a 45.1 percent likelihood that their home had a smartphone for 22.5 percent of children whose parents had a 'low' education level, and the 84 percent chance that the child was enrolled in a government school. While 27.6% of Children whose parents had a 'high degree of education, There was a 61 percent chance that the child would have a smartphone at home and a 69.5 percent chance that the child would attend a government school.⁶

According to previous reports, the protracted shutdown of schools in India owing to the Covid-19 outbreak might result in a loss of over \$400 billion in future profits, according to a

⁴ Mukesh Rawal, 'An analysis of COVID-19 Impacts on Indian Education System' (2021) 2 Educational Resurgence Journal 1

⁵ 'Nearly 20% of rural school children had no textbooks due to COVID-19 impact, finds ASER survey' The Hindu (28 October 2020) 1

⁶ Upamanyu Das, 'How did rural India learn during lockdown?' (*IDR*, 7 November 2020) 1

World Bank report released in October.⁷ It is an odd time, however, to be talking about the matter of children's right to education – at a time when millions of children across the world are out of school due to the COVID-19 pandemic. According to UNESCO estimates, 1.3 billion children and young people – that is, 70% of the world's student population are affected by COVID-related closures of educational institutions.⁸

EDUCATION AS AN INTERNATIONALLY RECOGNIZED RIGHT

The moral basis for the right to education was created by the Universal Declaration of Human Rights (UDHR) 1948, which specified that everyone deserves the right to education. Several international human rights treaties based on the Declaration have acknowledged education as a fundamental human right. Under these conventions, states must respect, safeguard, and fulfill the right to education. State obligations, which must be included in the domestic legal system even if education is privatized, must be recognized. Measures in policy and programs should be consistent with international obligations. India, for example, is a member of the signatory to this declaration that protects the right to education in Article 26. The International Covenant on Economic, Social, and Cultural Rights, which enshrines the right to education in its fullness. India is also a signatory to a number of other United Nations human rights treaties, including the United Nations Convention on the Rights of the Child, which contains provisions on children's rights, including the right to education. India is mandated to provide free primary education under international human rights agreements.⁹

In the 1993 *Keen v. State of Minnesota* case, "The Minnesota Supreme Court found that this constitutional provision rose that education is the status of a "basic right," requiring the State legislature to look for a general and uniform system of education for all"¹⁰

⁷ Prashati Avasthi, "Children in rural areas have limited access to remote learning amidst Covid-19: Survey" (*Business Line*, 31 October 2020) 1

⁸ Uma Mahadevan-Dasgupta, "The Right to Education in India: The Importance of Enforceability of a Fundamental Right" review: Education for all' *The Hindu* (30 May 2020) 1

⁹ Kishore Singh, "Right to Education." *India International Centre Quarterly* (2015) 42 JSTOR <<https://www.jstor.org/stable/26316578>> accessed 05 July 2021

¹⁰ Chenyang Li, 'Education as a Human Right: A Confucian Perspective Philosophy East and West' (2017) 67 JSTOR <<https://www.jstor.org/stable/44135546>> accessed 05 June 2021

DIGITAL HINDRANCES DURING PANDEMIC

Discrimination against girls or pupils from certain ethnic, linguistic, or economic backgrounds in the classroom, as well as discrepancies in school quality that disproportionately affect certain groups, continue to be impediments to equitable educational opportunities. Students with disabilities continue to be excluded from mainstream schools in many nations due to discrimination or inaccessibility, while others lack access to education in their native language. Meanwhile, educational inequality can have far-reaching implications for a society's overall inclusivity and equality. According to research, inclusive and integrated educational environments are ideal for preparing all students to live and study together. In short, proactive actions to avoid discrimination in schools are critical to children's ability to study as well as the development of a country. It is estimated that more than 1 billion learners are at risk of dropping behind; as a result of school cancellations aimed at preventing the spread of COVID-19. Countries have implemented remote education programs to keep the world's children educated. However, many children around the world – particularly those from lower-income families do not have a medium to access the internet like personal computers, televisions, or even radios at home. The current situation indicates that the effects of learning inequalities are magnifying. Students who do not have access to the equipment necessary for home-based learning are constrained in their educational options. Resulted, many people think the viewpoint of never returning to schools, jeopardizing years of academic progress around the world.

With Schools closures in 188 countries (as of April 2020), many people are moved towards a technical and informative platform like the Internet, television, and radio to provide continued instruction. However, access to these mediums is limited to various lowest- and middle-income countries, particularly among impoverished households. Approximate 60 percent of total countries have adopted digital and broadcasting remote learning policies for the pre-primary education system, even though more than 90% of countries had done so. The government's measures that ensure online learning continuousness through broadcast or

digital media might reach up to 69 percent of children in pre-primary to secondary school around the world.

Due to a lack of sufficient technical assets at home or because they were not targeted by the policies selected, 31 percent of children (463 million) around the world cannot be reached by broadcast- and Internet-based remote learning policies. Governments were most likely to use online platforms to teach while schools were closed, with 83 percent of countries doing so. However, just one-fourth of the world's schoolchildren were reached as a result of this. Television had the greatest chance of reaching the most students (62 percent). Only 16% of pupils in the world might benefit from radio-based learning. Globally, three out of every four students who are not reached by distant learning initiatives are from rural areas and most of them belong to poor families. Governments should not rely entirely on a single remote learning channel to reach all pupils, based on these findings. A long-term focus for minimizing learning challenges would be increased access to the Internet and other digital solutions for all youngsters.¹¹

A POSITIVE APPROACH IN POST COVID ERA

Though the emergence of COVID-19 had several detrimental special effects on schooling, during the pandemic, Indian educational institutions have recognized the obstacles and are doing their utmost to provide smooth support services to students. The Indian educational system can now progress from a traditional to a modern structure. International organizations are likely to create an easy and informative platform through which a remote education system can be provided even the learners are subject to live in any place of the world.

JUDICIAL ORDERS

Can private schools or colleges arbitrarily charge excessive fees?

Parents in urban areas are increasingly turning to private schools, where learning outcomes are better. However, with more autonomy, these private institutions are charging exorbitant

¹¹ 'Monitoring the Situation on Women and Children' (UNICEF September 2020) <<https://data.unicef.org/topic/education/covid-19>> accessed 01 July 2021

fees. The constitutional basis for regulating the fees charged by private schools was considered by the Supreme Court in *T.M.A. Pai Foundation v. State of Karnataka*.¹²

In Islamic Academy of Education and Another vs state of Karnataka and Ors. (2003)

“A Constitutional Bench of the Supreme Court of India held that these institutions can have the independence to create a surplus that need be used for their betterment and advancement. However, the word ‘surplus’ is not clearly defined.” Last year, the “Supreme Court ruled that any private school in Delhi running on land allotted by the Delhi Development Authority (DDA) has to take the permission of the Delhi government before hiking the fees”.¹³

But during the pandemic, the Supreme Court judgment in *Indian School Jodhpur v. State of Rajasthan* (May 3, 2021) “dealt with a set of appeals concerning the validity of a circular issued by the Director of Secondary Education, State of Rajasthan. This circular reduced school fees for the academic year 2020-21 for schools affiliated with the Central Board of Secondary Education by 30 percent, and for schools affiliated with the Rajasthan Board of Secondary Education by 40 percent, the reduction was commensurate to the reduction in the syllabus, and aimed to provide some respite to parents who may be dealing with the economic fallout of the Covid-19 pandemic”.¹⁴ The court ordered that institutions not prevent students from enrolling in online or physical classes due to non-payment of tuition, arrears, or outstanding fees.¹⁵

CONCLUSION

The present situation bears testimony to the fact that reshaping the education system of our country in the light of constitutional mandates is highly matter of concern because education entails learning, and learning entails power. True democracy is one in which everyone is

¹² *TMA Pai Foundation v State of Karnataka* AIR 2003 SC 355

¹³ ‘Education in India - Can private schools arbitrarily hike fees’ (*Legal Services India*)

<<http://www.legalserviceindia.com/legal/article-147-education-in-india-can-private-schools-arbitrarily-hike-fees.html>> accessed 16 July 2021

¹⁴ Vinodini Srinivasan & Dhruva Gandhi, ‘Why the Supreme Court order on school fee relief misses the big picture’ (*The Hindu*, 7 May 2021)

¹⁵ Amit Anand Chaudhary, ‘Schools must reduce fees for online-only classes: Supreme Court’ (*Times of India*, 4 May 2021)

educated, where people know what is beneficial for them and their country, and where they know how to govern themselves. The goal of the right to education is to ensure that education is not commercialized. Today, each state has its education board. Following the dissolution of all boards, there should be a single syllabus. In the country, only universal education can be accomplished. It will need 6% of GDP to ensure the successful execution of this Act, which is a significant obstacle. Nutritional issues for children aged 0-3 years, as well as pre-school instruction for children aged 3-6 years, should be handled with extreme caution. However, because of the high quality of internet connectivity, awareness, availability, and smartphone and their operators, students in metropolitan regions can access and attend online classes regularly. To avoid any disruptions in academic calendars, the government must take steps to promote online learning as a stopgap measure. Technology and smart classrooms are not only revolutionizing teaching at high-end private schools, but they are also making inroads in public schools. As a result, e-learning is currently the preferred method of transforming the education sector. It is undergoing a positive development, and rural schools and institutions are adjusting to technology daily. It's encouraging to note that even Tier III and rural communities are taking steps to convert conventional schooling into a technologically enhanced process; government must ensure upcoming pandemics/disasters would not happen such non-informative calamity in the future.