

THE LEGALITY OF ONLINE CLASSES: CHILD RIGHTS AND THE RIGHT TO EDUCATION

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ABSTRACT:

The impact of COVID-19 on education has been unprecedented. It has disrupted the learning processes of children of all ages. This crisis has not only exacerbated the pre-existing educational disparities, but has also reduced the available opportunities for several vulnerable children, thereby forcibly displacing a plethora of people from continuing their learning. Education is not only a fundamental right enshrined under Article 21(A) but is also an inalienable human right. It is an enabling right with a direct impact on the realization of all other human rights. The understanding of this right, is even more significant in these trying times as the pandemic has had ramifications across people from various facets of life in diverse ways. The closures of schools and educational institutions post the lockdown have deranged the provision of essential services such as access to nutritious food, which was provided through midday meal scheme through educational institutes, affected the employment of several parents and has further increased the risks of violence against women and girls. This new system, will have ramifications far beyond the system of education.

Through this research paper, the researcher would like to understand how online education is affecting the Right to Education of several children who have been deprived of learning opportunities due to their inability to gain access to devices and internet services. The researcher would further like to understand how the lack of legislation regarding online classes has violated several child rights and suggest remedies to the same.

Introduction

The power of education has always been unparalleled. It has the ability to end inter-generational cycles of inequity and can considerably transform the lives of individuals and opens up doors to opportunities and career growth. Education teaches students to move out of primary sectors jobs and gives them access to increased incomes and thus improves their

financial circumstances. Quality education improves ones linguistic abilities, inculcates curiosity, catalyses change making and is a pathway to foster inclusivity and end years of unequal access to resources. Education encourages students to impact communities and build solutions to problems that plague the country. The Right of Children¹ to Free and Compulsory Education Act or Right to Education Act (RTE) describes the nuances of the importance of free and compulsory education for children between 6 and 14 years in India and has put India on a list of 135 countries that have made Education a fundamental right.

According to the United Nations Convention on the Rights of the Children – that India ratified in 1992 – all children are born with fundamental rights. These rights include Right to Survival, Right to Development which includes education and care, right to protection from abuse, neglect and the right to participation, thought and information.

Today, India has the largest youth population in the world. Almost a third of Indians are between 15 and 29 years old, this is an indicator of the sheer importance of quality education and the accessibility to this education in determining the future of our country.

Education needs to be accessible by diverse population spread across different regions. With the onset of the pandemic there has been a quantum shift in the medium of dispensing this education to several communities. The lockdown and restrictions caused due to the onset of COVID-19 have uprooted the classrooms and recreated this environment in the virtual world which was the need of the hour. This has ensured that despite the world coming to a standstill, dispensing quality education continues. The current situation demands the need for understanding the implications of the pandemic driven online classes on this resource especially due to the inherent equities of our country.

Discussion:

As per Census 2011², there are 10.13 million children working in India between the age of 5 and 14 years. This casts serious doubt as to the implementation of the Right To Free and

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¹ RIGHTTOEDUCATION.IN, <http://righttoeducation.in/know-your-rte/about>, (Last visited on 12 November 2020).

² Registrar General of India, *C-12 (ANNEXURE) : Population Age 5-19 Not Attending Educational Institution By Economic Activity Status And Sex – 2011*, CENSUS INDIA, (Mar. 31, 2011), <https://censusindia.gov.in/2011census/C-series/C12A.html>

compulsory education to all children between the ages of 6-14 years. In these trying times, lack of access to continuous education due to limitation in gaining accessing to devices and unavailability of power supply along with lack of affordability along with other hurdles is pushing more and more children in this age bracket to labour considering that the opportunity cost for parents to send their children to school has substantially increased.

The initial rationale to shift virtual education was to provide students with a gateway to information, support and give them an opportunity to continue their learnings in a safe environment. Further, policy makers along with educators wanted children to have access to safe space where they had minimal risks of exposure to the virus, the on ground reality of implementation of this bonafide ideology are worth noting.

Despite the fact that several students have benefited from this shift, a multitude of students today are being deprived of this resource because of factors like lack of access to devices and internet. These are factors that are way beyond their control. Online education and virtual learning necessitate the requirements of smartphones, computers or other devices that can help access audio and video content. However, one in four children of school going age is out of school in our country (Census 2011). It must also be kept in mind that a multitude of factors constitute obstacles in ensuring that every child belonging to a school going age gains access to education. A survey among children in four southern states found that about 94% of the respondents did not have access to smartphones³ or the internet for online education. Further, 55% of the children get access to mobile devices only for three days a week or less. Even for the minority of students that did have access to these devices, learning continued to be disrupted due to lack of study- conducive environments such as availability of a well-lit room or a distraction free space among others that were hurdle to accessing online classes. Many regions⁴ also face 14 to 16-hour power shutdowns especially during monsoons that further denies the continuous access to education.

³ 94 pc kids surveyed in 4 states don't have smartphones or internet access for e-education: CRY, TPI, August 17, 2020.

⁴ Government of Puducherry, Electricity Department, <https://electricity.py.gov.in/power-shut-down-schedules>, (last visited Dec. 6 2020).

For several communities, the school environment was also an escape from social evils like bonded labour, child marriage and from domestic abuse thus providing them with a safe place while providing education. Schools that were supporting the midday meal schemes were also similarly affected by the pandemic. The resultant shift of education delivery not only created an impact on the system with which education had been delivered to students but also discontinued the provision of midday meal for children enrolled in this program. It is important to highlight here that this one meal provided to students not only formed an incentive to attend school but largely constituted their only nutritional food intake of the day. The need for addressing this issue has been enhanced as financial circumstances of several families from underprivileged communities have further been worsened due to loss of employment and forced migration.

For middle- and upper-class families who have easy access to online mode of education through availability of devices and uninterrupted power supply along with education conducive environment. However, they also continue to be plagued by negative effect of this system of learning. Although the implication of online education of these students are polar opposites to those faced by children from underprivileged communities, the effects are not less. For these students, the increased exposure to screen time coupled with a lack of routine is proving to have adverse effect on overall physical health and mental health. Students exposed to increased screen time also demonstrated significant changes⁵ in their Body Mass index. Children in the age group of 0-6 years, exposed to a screen while eating, were more prone to follow obesogenic⁶ diets thus making screen time as being a precursor to obesity⁷ in later stages of childhood. Online classes also encourage more sedentary activities further contributing towards obesity related chronic diseases like type 2 diabetes mellitus. The increased and unregulated duration of online classes further limit the ability of students to have access to time in order to interact with other children and engage in physical play.

⁵ Valerie Carson et al., *Systematic review of sedentary behaviour and cognitive development in early childhood*, 78 PREV. MED., 115-22 (2015).

⁶ Lauren Lissner et al., *Television habits in relation to overweight, diet and taste preferences in European children: The IDEFICS stud*, 27 (9) Eur. J. Epidemiol, 705-15, (2012).

⁷ JP. Twarog, *Daily television viewing time and associated risk of obesity among U.S. preschool aged children: An analysis of NHANES 2009-2012*. OBES. RES. CLIN. PRACT., 636-38, (2015).

Increased screen time exposes individuals to radiation, blue light and leads to hyperarousal⁸ of the child brain which is known to decrease production of melatonin that heavily impacts the R.E.M sleep cycle of a child. Children often sleep extremely late at night while engaging with their devices and complain of a disturbed sleep cycle. Accessing online education also involves unsupervised access to internet at most times. Moreover, unsupervised access to internet along with limited social interaction also severely impact child safety by making them vulnerable to child predators lurking around in corners of the virtual world. One in three adolescents reported going through negative experiences on the Internet like cyber bullying, receiving unsolicited pictures or lewd remarks from strangers.⁹ Additionally, usage of unsupervised internet puts younger adolescents (especially when they have their own rooms at home) at a higher risk of causing harm to themselves. Only a quarter of the adolescents had correct knowledge of minimum age for creating social media accounts, while nearly 90 percent of respondents knew the minimum age for buying SIM cards. 35 percent of the respondents had knowledge about NCERT Internet Safety Guidelines.

The new normal has also impacted the working culture forcing adults out of their offices. The impact of these factor cannot be overlooked. One needs to understand that children accessing online education are amidst either one or more than 1 family member interacting with the virtual world. It has forced the working class to access meetings and official engagements through from their homes. It must also be factored that members of the family who aren't accessing devices due to compulsion continue to access the devices like television for entertainment. Children availing online education from home are also exposed to these background noises These noises often leads to immediate and long term effect on psyche. The presence of background television during parent child interactions was found to reduce the non-verbal¹⁰ and verbal interactions between the parent and child which again can significantly affect children. Further, media verbal interactions¹¹, defined as the verbal

⁸ Mireia Adelantado-Renau et al., *The effect of sleep quality on academic performance is mediated by Internet use time: DADOS study*, 95 (4) J PEDIATR, 410-18, (2019).

⁹ Monica Anderson and Jingjing Jiang, *Teens' Social Media Habits and Experience*, Pew Research Center, (Nov. 28, 2018), <https://www.pewresearch.org/internet/2018/11/28/teens-social-media-habits-and-experiences/>

¹⁰ G. Blake Armstrong & Bradley S. Greenberg, *Background Television as an Inhibitor of Cognitive Processing*, 16 (3) HUM. COMMUN. RES, 355-86, (1990).

¹¹ CP Bankart & CC Anderson, *Short-Term Effects of Prosocial Television Viewing on Play of Preschool Boys and Girls*, 44(3) Psychol. Rep., 935-41, (1979)

interactions between a caregiver and a child during media exposure negatively affects functions like cognitive processing, memory and reading comprehension in children. These effects are also demonstrated while performing an activity offline while continuing to be present in an online environment.

Further, the lack of social interaction in the absence of school, leads to increased levels of anxiety and puts students in risk of other mental illnesses. For the age range of 14-17 years individuals with higher screen exposures were two times at risk of having low psychological well being¹² compared to those with significantly lesser exposure to the screen. They lack self-control and have poorer ability to perform simple tasks without getting distracted. Prolonged exposure to screen also manifests in lack of curiosity and increased arguments with care givers. Children with increased exposure to screens have proven to be easily angered, less likely to calm down and showed difficulties to switch between tasks without getting anxious¹³ about it. Online learning also severely affects a child's overall educational output and performance.

Conclusion:

The pandemic is still far from being over, and this system of education is here to stay for much longer than policy makers and world leaders have anticipated. It is important to understand that online education cannot be omitted and is the only means of continuing education during this dire situation. In this scenario, the only thing that can be controlled is having stringent delivery mechanism of this system.

The sporadic decision to regulate duration of online education varied between state to state , although the impact of this system is consistent across states. Hence it is important to have uniform regulation in the duration of online classes across ages.

¹² D. Brindova, *et al.* *Is the association between screen-based behaviour and health complaints among adolescents moderated by physical activity?* 60 INT J PUBLIC HEALTH, 139–45 (2015).

¹³ Jean Twenge & Keith W. Campbell, *Associations between screen time and lower psychological well-being among children and adolescents: Evidence from a population-based study*, 12 PREV. MED. REP., 271-83, (2018).

The psychological, physiological, social and financial consequences of this system of learning calls for a nationwide law regulating the quality and quantity of the delivery of online education. There is an urgent need to regulate the duration of online classes, considering its timings vary from state to state. Although there were legislations were passed on the number of hours of online classes for various grades, there were no measures outlined to monitor and hold offenders liable due to lack of clear legislations. The sudden change in delivery of education has created havoc and has required teachers to suddenly equip themselves with this new methodology of service delivery.in a short duration of time. It goes without saying that many teachers are still not technology friendly and are fumbling with the new system. Therefore it is essential that teachers are provided with specific training that can help them master the skills for efficient delivery of online education system. Teachers must have special training sessions and be provided with equipment and infrastructural support to effectively conduct online classes. Learning material must be synthesised and made child centred. Parents have also not been spared by this pandemic. The new normal has pushed parents to participate in role of parent-professional partnership thus bearing the onus of supporting their wards in learning. This also requires modification in learning materials to move from traditional text books to the virtual world, so that they can access it easily and facilitate learning. Further training sessions must be conducted for parents to understand the course material and effectively support their wards interaction with school resources, wherever or whenever necessary. The need for training parents can empower them which also go a long way to reduce their apprehension and anxiety towards the online medium of education.

Educational institutions must avoid trying to replicate a classroom set up online and must instead customise learning to this circumstance.

Parents must be encouraged to co-view classes with their children (insert barney example). Learning methodology must also adapt to changes. Asynchronous learning i.e. sending teaching materials outside of class, assignments and worksheets must constitute the majority of the school hours and synchronous or virtual live classes must take a back seat. These times should solely be dedicated towards discussions, debates and other forms of online interaction that enable social interaction.

Synchronous learning further helps in facilitating this interaction between students and parents.

Indian laws must also use inspiration from laws across the European union by showing children the applicability of laws, make panic buttons easily accessible on social media sites and have more stringent ways of implementing age restrictions across websites.

There must be a uniform platform with adequate security measures across which online classes are conducted for Indian students as compared to relying on third party apps like zoom, google meet etc. as these are vulnerable to hacking exposing children to obscene data. Workplaces must be sensitised to the needs of working parents and must attempt at creating more flexible working hours and ensuring access to devices in these trying times. They should formulate more employee friendly policies to support education and learning of the future generation.

Cyber Café's must be set up across rural areas to ensure that children have easy uninterrupted access to large screens and study spaces. Community learning and peer learning must be encouraged by schools, especially in rural areas, keeping social distancing norms in mind. The right to education must bring into its ambit the right to internet and access to devices and these rights must further be made an essential portion of the New Education Policy. Federal laws like the Children's Online Privacy Protection¹⁴ rules must be brought to India and customised to the needs of our population.

23% of the schools in India have just 5 to 30¹⁵ children in classrooms. "These are not large numbers, and so the chances of infection spreading could be relatively lower, keeping this in mind, schools in rural areas must be sanitised.

To ensure mental health for students, rural areas must be equipped with counsellors or teachers must be trained to identify signs of mental disorders and connect students to the appropriate person to assist them. Primary health care centres in rural areas must be equipped with representatives to counsel children about POCSO guidelines along with helping them cope with the trauma and the suffering that may have been consequences of the virus. Places

¹⁴ Children's Online Privacy Protection Act, 2011, § Title 15, Chapter 91, 2011, (USA).

¹⁵ Seethalakshmi S, *Out-of-school children likely to double in India due to coronavirus*, LIVE MINT, August 16, 2020.

like gas stations, libraries etc must have subsidised internet services that may be accessed freely by anyone.

Clear guidelines should be developed, and all members involved in a child's life should be made aware that younger adolescents should not use Internet without supervision and guidance. Mobile Internet is almost impossible to control as it is cheap, portable, accessible. Children should be encouraged to use Internet on bigger screens in spaces which are not secluded. It is also required that parents not only monitor the quantity of time that a child spends online, but they must also have an understanding of the quality of content viewed by their children. NEP¹⁶ should recognize Change Brought after RTE Act 2009 in terms of increase in reach and improvement in school infrastructure and carve a future vision and pathway for the implementation of Right to Education Act in India. The policy should also have specifics on how to address issue of teaching methodology and learning outcomes. The National Education Policy should also integrate principles of equity and inclusiveness and must also have the vision to attempt to achieve the same. Present Educational Indicators reflect clear gaps – in access, enrolment, retention, attendance with respect to specific population demographics and areas that should be addressed. Not just teachers, school staff, and communities, but even children need to be sensitized and trained to be inclusive.

The 2.5 lakh gram panchayats tasked with tracking dropouts under the Right to Education Act do not maintain any record of children who leave school and join the workforce, said V.P. Niranjanaradhya, fellow and programme head, universalisation of education, National Law School of India University, Bengaluru¹⁷. India must take inspiration from the policy measures by Central African Republic¹⁸, where violence and unrest have forced many children out of school, the government is using EduTrac, a mobile-phone-based data-collection system, to collect basic information including which schools are functioning and how many students are attending school, even in the most hard-to-reach areas. A similar system could help India increase the gross enrolment ratio and gauge a better understanding as to the reasons for drop outs. This could help them understanding areas that require access to devices along with assist in stimulating a framework for community intervention.

¹⁶ NEP, 2020, (Ind).

¹⁷ Seethalakshmi, supra note 17.

¹⁸ Ye Ra KIM, *Raising Hopes with eduTrac in CAR: In a Conflict Affected Country, Hopes Arise with EduTrac among School Headmasters*, UNICEF, January 5, 2016.



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This is a clarion call for legislation in the field of online learning and further requires developing an understanding of education as a collaboration between policy makers, experts in the field of education, parents, teachers and students around the globe in formulating a response to this issue with long term effects in mind.

