
PANDEMIC AND EDUCATION: EXAMINING THE RIGHT TO EDUCATION OF CHILDREN IN INDIA DURING COVID-

19

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ABSTRACT

The COVID-19 pandemic has had a profound impact on Right to education in India, exacerbating existing disparities and posing significant challenges to the education system. This article examines the multifaceted effects of the pandemic on educational accessibility in India, considering factors such as school closures, remote learning initiatives, socio-economic inequalities, and the digital divide. School closures, mandated to contain the spread of the virus, disrupted traditional modes of education across the country, affecting millions of students. The rapid shift to remote learning highlighted the unequal distribution of resources, with many students lacking access to essential tools such as computers, internet connectivity, and supportive learning environments.

The right to education is universally acknowledged as a fundamental human right, enshrined in numerous international and regional human rights treaties. However, even before the onset of the Covid-19 pandemic, many countries faced significant challenges in fulfilling this promise, with a substantial number of children out of school. When Covid-19 swept across the globe, Governments worldwide implemented lockdown measures to curb its spread. As a result, educational institutions were shuttered, prompting a shift to online learning to safeguard the health of students and educators. This transition to distance education posed a steep learning curve for both teachers and students, including in India, the world's second most populous nation, which grappled with the pandemic's impact. This paper seeks to assess the repercussions of the Covid-19 pandemic on the right to education for children in India, recognizing the critical importance of ensuring access to education as a fundamental human right.

Keywords: Right to Education, Children, Covid-19, Digital Divide, Human Rights

Design of the Research

The present research is divided into two parts. The first part of the research includes introduction, objectives of research, research questions, research methodology and design of the research. The second part of the research deals with detailed discussion and is further subdivided into three parts. The first part highlights the importance of right to education of children as a basic human right. The second part evaluates the impact of Covid-19 pandemic on right to education of children in India and the measures taken by the government for protection of right to education during the pandemic. The last part of the research presents the conclusion and suggestions.

Introduction

The COVID-19 pandemic has undoubtedly sparked unprecedented disruptions across various sectors worldwide, including the education system. In India, where the right to education is enshrined as a fundamental right under the Constitution, the repercussions of the pandemic on the educational landscape have been profound and multifaceted. With nationwide lockdowns, closure of educational institutions, and the swift transition to remote learning modalities, the pandemic has presented both challenges and opportunities for the realization of the right to education for children in the country. The right to education, as articulated in the Indian Constitution under Article 21A, guarantees free and compulsory education for all children between the ages of 6 and 14. However, the pandemic has laid bare the existing fault lines within the education system, exacerbating disparities and inequities in access to quality education. Vulnerable communities, including those from marginalized socio-economic backgrounds, rural areas, and remote regions, have been disproportionately affected, with limited or no access to digital infrastructure, devices, and reliable internet connectivity, further exacerbating the digital divide. Against this backdrop, understanding the impact of COVID-19 on the right to education of children in India becomes imperative. This research aims to explore the multifaceted dimensions of this impact, examining the challenges faced by different segments of the population, the efficacy of government interventions, and the emergence of innovative solutions to mitigate the disruptions caused by the pandemic. Furthermore, this study seeks to analyse the implications of these disruptions on the broader socio-economic fabric of the nation, including long-term educational outcomes, employment prospects, and social mobility. By shedding light on the nuances of the educational disruptions brought about

by the pandemic, this research endeavours to inform policy discourse, advocacy efforts, and strategic interventions aimed at safeguarding and strengthening the right to education for all children in India, particularly in times of crisis. The COVID-19 pandemic, stemming from a virus identified in December 2019 in Wuhan, China, is a severe global health crisis. Belonging to the family of viruses known for causing respiratory infections, COVID-19 swiftly spread, prompting the World Health Organization to declare it a pandemic by March 2020. The virus has caused immense devastation, with over 7 thousand reported deaths and more than 2 lakh confirmed cases worldwide by that time. Governments worldwide responded by implementing strict lockdown measures to curb its contagious spread. To date, the pandemic has claimed the lives of approximately 63 lakh individuals and directly affected around 560 million people. Its impact has not only been on public health but also on various aspects of human rights, particularly the right to public health and the right to education, both enshrined in international human rights treaties like the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The International Covenant on Economic, Social and Cultural Rights (ICESCR) asserts that every individual has the right to mental and physical health, obligating state parties to take necessary measures for the protection, treatment, and prevention of life-threatening diseases. Simultaneously, the right to education is recognized as fundamental, with COVID-19 severely disrupting education systems globally, affecting approximately 1.6 billion students across 190 countries, constituting 94% of the world's student population. The closure of educational institutions aimed to contain the spread of the virus and safeguard the right to life, a fundamental duty of governments. However, prolonged closures, as seen in India and other nations, necessitated the adoption of distance learning methods, primarily through technology. Nonetheless, the transition posed challenges, particularly in countries like India, where internet access and technological resources are not universally available. Consequently, many students, especially schoolchildren, faced academic setbacks due to difficulties in adapting to online learning. The Committee on Economic, Social and Cultural Rights (CESCR) emphasizes the interconnectedness of human rights, highlighting that the right to health is dependent on other rights such as education, dignity, equality, and access to information. Therefore, even during emergencies like the COVID-19 pandemic, state parties must uphold all human rights without discrimination, including the right to education. It is imperative that governments ensure equitable access to education for all children, regardless of their socioeconomic status or background. In addition to exploring the immediate challenges posed by the pandemic, this

research will also delve into the potential long-term consequences, such as learning loss, educational inequality, and the exacerbation of pre-existing disparities. Moreover, it will examine the role of various stakeholders, including government agencies, educational institutions, civil society organizations, and the private sector, in addressing these challenges and fostering resilient education systems that are inclusive, equitable, and responsive to the diverse needs of learners. By critically analysing the impact of COVID-19 on the right to education in India, this research endeavours to contribute to the growing body of literature on educational disruptions in times of crisis, providing valuable insights for policymakers, educators, researchers, and advocates striving to ensure that every child has access to quality education, irrespective of their socio-economic background or geographic location.

Research Objectives

On the basis of preliminary examination of literature, the researcher has undertaken this research to analyse the effects of Covid-19 pandemic on Right to Education in India. The researcher has set the following objectives:

- a) To highlight the importance of Right to Education as a basic human right.
- b) To assess the impact of Covid-19 on Right to Education of children in India.

Research Questions

In order to achieve the objectives of the present research, an attempt has been made by the researcher to answer the following questions:

- a) Whether the Right to Education of children was affected by Covid-19 in India?
- b) Whether online teaching has mitigated the effects of Covid-19 on Right to Education in India?

Research Methodology

The methodology applied in this research would be doctrinal and analytical based on the primary and secondary data. Primary Sources include international treaties, various reports of different organs of United Nations and secondary sources include books and research articles.

Right to Education as a Human Right

Human rights are intrinsic to all individuals simply by virtue of their humanity. They are universal and inalienable, and states that have ratified international human rights treaties are obligated to uphold, promote, and enact these rights within their domestic laws. These rights are not granted by rulers but are inherent to every person, forming the basic standards necessary for a dignified life. The right to education has been acknowledged as a significant human right in various international and regional human rights agreements. Nelson Mandela, a renowned social reformer, once stated, "Education is that weapon which can be used to change the world." Similarly, former United Nations Rapporteur on Education Rights, Katarina Tomasevski, emphasized that education must be accessible, adaptable, acceptable, and available without discrimination. The right to education serves as a means for individuals to assert their economic, social, civil, and political rights and to challenge violations of human rights by their respective states. State parties have a duty to promote and safeguard the right to education in their domestic laws without discrimination. For instance, Article 2(1) of the Convention on the Rights of the Child (1989) mandates that states must ensure and respect the rights guaranteed under the Covenant to every child within their jurisdiction, regardless of factors such as religion, ethnicity, or political opinion. Similarly, Article 2(2) of the International Covenant on Economic, Social and Cultural Rights (1966) requires state parties to implement the rights guaranteed under the Covenant without discrimination based on factors such as religion, language, or race. India, as a democratic nation, has ratified numerous international human rights treaties that recognize the right to education as a fundamental human right. This right is enshrined in Article 21-A of the Indian Constitution, making education a basic entitlement. Additionally, elementary education is a statutory right in India, mandating the state to provide free and compulsory education to children aged 6 to 14 years. Following China, India boasts the second-largest number of schools globally, emphasizing its commitment to education. Approximately 120 million children in India benefit from the Mid-day Meal Scheme, which offers a free meal to students aged 6 to 14 attending government schools. This scheme serves as a significant incentive for school attendance and educational participation.

The Indian judiciary, serving as the guardian of fundamental rights, has consistently played an active role in advocating for and safeguarding the right to education (*Mohini jain v State of Karnataka* AIR 1992 SC 1858; *Unni Krishnan v State of Andhra Pradesh* 1993 SCC (1) 645).

Despite the government's earnest endeavours to ensure universal education, a significant number of children in India remain out of school, posing a considerable concern.

Legal Implication of Lockdown during Covid-19 in India

The COVID-19 pandemic, declared by the World Health Organization on March 11, 2020, has had far-reaching repercussions on a global scale. Urgent and comprehensive measures were called for to halt the relentless spread of this formidable disease. International human rights law, notably enshrined in Article 12 of the International Covenant on Economic, Social and Cultural Rights (1966), mandates state parties to diligently safeguard the right to health of their populace and all individuals within their jurisdiction. Moreover, states are entrusted with the responsibility to enact and implement sufficient measures aimed at the prevention, treatment, and containment of epidemics and occupational diseases, thereby safeguarding the health and well-being of their citizens and residents. In May 2005, the 58th World Health Assembly adopted the International Health Regulations, serving as a critical framework for international cooperation in the control and prevention of the spread of diseases. These regulations not only underscore the importance of public health but also emphasize the imperative to uphold human rights, fundamental freedoms, and human dignity in all response efforts. Throughout the tumultuous waves of the COVID-19 pandemic, virtually every nation on earth implemented stringent measures such as lockdowns and movement restrictions to curb the transmission of the virus within communities. India, in particular, found itself grappling with the profound impact of COVID-19, witnessing staggering numbers of fatalities and infections. With approximately 540,000 lives lost and nearly 4.9 million individuals directly affected by the virus, the nation faced an unprecedented public health crisis. Recognizing the gravity of the situation, the Indian government, through the Ministry of Home Affairs, invoked the Disaster Management Act, 2005, on March 14, 2022, formally declaring COVID-19 as a disaster. This declaration paved the way for the issuance of a nationwide lockdown order on March 24, 2022, as a critical measure to contain the spread of the virus and mitigate its devastating effects. The Disaster Management Act, 2005, serves as a crucial legislative framework aimed at ensuring effective disaster management and response mechanisms. As elucidated by the Supreme Court of India in the landmark case of *Swaraj Abhiyan v Union of India and Ors* (2016) 7 SCC 498, the scope of this Act extends beyond mere administrative functions to encompass proactive measures for mitigation and prevention. Furthermore, Indian state governments, empowered by the Epidemic Diseases Act, 1897, were granted the authority to implement tailored

interentions and restrictions to combat the spread of COVID-19 within their respective jurisdictions. This legislative provision afforded states the flexibility to impose necessary measures according to the evolving dynamics of the pandemic.

In addition to invoking the Epidemic Diseases Act, 1897, state governments in India also utilized Section 144 of the Code of Criminal Procedure (CrPC) to restrict the movement of individuals, particularly during periods of heightened transmission. The imposition of national lockdowns and other containment measures during both the first and second waves of the pandemic underscores the severity of the crisis and the imperative to prioritize public health and safety above all else. Despite the significant disruptions and challenges posed by these restrictions, they were deemed indispensable in the collective effort to curb the spread of COVID-19 and safeguard the well-being of the populace. India's experience during the COVID-19 pandemic serves as a stark reminder of the critical importance of robust legal frameworks, effective governance, and international cooperation in addressing global health crises. By upholding the principles of human rights, equity, and solidarity, nations can collectively navigate the challenges posed by pandemics and emerge stronger and more resilient in the face of adversity.

Impact of Covid-19 on Right to Education in India

The Covid-19 pandemic has unleashed an unprecedented global health crisis, affecting an estimated 560 million individuals worldwide. Beyond its devastating toll on public health, the pandemic has wrought havoc on economies and upended the education sector, leaving a profound impact on societies across the globe. With stringent measures in place to curb the spread of the virus, including the widespread closure of educational institutions, the educational journey of approximately 1.6 billion students from over 190 countries has been abruptly disrupted, constituting a staggering 94% of the world's student population. Governments worldwide have scrambled to respond to the crisis, swiftly turning to technology as a lifeline for education. The adoption of e-learning and distance education emerged as the primary strategies to mitigate the disruption caused by the pandemic. However, while these measures offered a semblance of continuity, they revealed glaring disparities in access and resources, leaving many students stranded without the necessary tools for remote learning.

In the Indian context, home to a staggering 250 million elementary and secondary school students, along with 28 million pre-schoolers, the impact of the Covid-19 pandemic on

education has been particularly severe. School closures, surpassing durations seen in many other nations, forced an abrupt transition to remote learning modalities. Yet, this shift has exposed deep-rooted inequities within the Indian education system, exacerbating existing divides along socio-economic lines. A substantial segment of students in India finds themselves on the wrong side of the digital divide, lacking access to fundamental resources critical for online education, such as reliable internet connectivity, mobile devices, and computers. Moreover, educators have grappled with the challenge of adapting pedagogical approaches to suit the virtual environment, often without adequate training or support. Despite concerted efforts to deliver educational content remotely, monitoring its dissemination and ensuring its efficacy has proven to be an uphill battle. Students enrolled in government schools, particularly those situated in rural areas, have borne the brunt of the disruption, with a negligible percentage able to access online classes or educational materials. The prolonged closure of schools has led to a significant regression in language and mathematical proficiency among students, disproportionately affecting marginalized groups such as asylum seekers, migrant workers, refugees, differently-abled individuals, and those residing in remote regions. The pandemic has laid bare the deep-seated digital disparities entrenched within the Indian education landscape. The lack of adequate infrastructure and support systems, coupled with the abrupt shift to online learning, has left both educators and students grappling with unprecedented challenges. In response, the Government of India has unveiled the National Education Policy 2020, signalling a commitment to integrating technology into the education framework with the aim of ensuring equitable access to quality education for all students, irrespective of their socio-economic backgrounds.

The COVID-19 pandemic has had both positive and negative impacts on education in India:

Positive impacts:

- Accelerated adoption of technology: The pandemic forced educational institutions to adopt online learning methods, leading to increased familiarity and comfort with technology among students and teachers.
- Access to education: Online learning has provided opportunities for students in remote areas or with physical disabilities to access education that they might not have had otherwise.

- **Flexibility:** Online education has offered flexibility in terms of scheduling and pacing of learning, allowing students to learn at their own pace and manage their time effectively.
- **Innovation in teaching methods:** Educators have been compelled to explore new teaching methodologies and tools to engage students in the online environment, leading to innovation and creativity in teaching.
- **Increased collaboration:** Online platforms have facilitated collaboration among students and teachers across different geographical locations, enabling knowledge sharing and networking opportunities.

Negative impacts:

- **Unequal access to technology:** Not all students have access to the necessary technology (such as laptops, tablets, or high-speed internet) for online learning, exacerbating existing inequalities in education.
- **Learning loss:** The transition to online learning has resulted in learning loss for many students due to factors such as lack of access to resources, difficulties in adapting to the online format, and distractions at home.
- **Mental health concerns:** Prolonged periods of isolation, uncertainty, and increased academic pressure during the pandemic have contributed to mental health issues among students, affecting their overall well-being and academic performance.
- **Increased dropout rates:** Economic hardships faced by families during the pandemic have led to increased dropout rates, particularly among vulnerable groups, as children are forced to work or support their families financially.
- **Quality concerns:** The sudden shift to online education has raised concerns about the quality of education being delivered, including issues related to the effectiveness of online teaching methods, assessment practices, and student engagement.

Digital divide during Covid-19

The digital divide in the right to education during the COVID-19 pandemic in India has been

a significant challenge, exacerbating existing inequalities in access to education. Here are some key points regarding this issue:

- **Lack of Access to Devices:** Many students, especially those from lower-income families and rural areas, lack access to smartphones, tablets, or computers necessary for online learning. This has hindered their ability to participate in remote learning initiatives adopted by schools during the pandemic.
- **Limited Internet Connectivity:** In addition to the lack of devices, there is a significant disparity in internet connectivity across different regions of India. Remote and rural areas often have poor internet infrastructure, making it difficult for students to access online learning platforms and resources.
- **Language Barriers:** Online education materials are often available primarily in English or Hindi, which can pose a challenge for students whose primary language is different. This language barrier further widens the educational gap, particularly for marginalized communities.
- **Quality of Education:** Even for students who have access to online resources, the quality of education may vary significantly. Many teachers and schools were ill-prepared for the sudden shift to online learning, leading to disparities in the quality of instruction received by students.
- **Financial Constraints:** Even if families can afford devices and internet connectivity, the financial burden of purchasing these resources can be prohibitive, particularly for those who have lost income due to the economic impact of the pandemic.
- **Gender Disparities:** Girls, especially in rural areas, may face additional barriers to accessing education online due to cultural norms, limited mobility, and household responsibilities.
- **Government Initiatives:** The Indian government has implemented various initiatives to address the digital divide in education during the pandemic, such as the distribution of smartphones and tablets to students from marginalized communities and providing free access to certain educational websites. However, the reach and effectiveness of these initiatives have been limited.

Overall, while the COVID-19 pandemic has accelerated the adoption of technology and prompted innovation in education, it has also highlighted and exacerbated existing inequalities and challenges within the Indian education system. Addressing these challenges will require concerted efforts from policymakers, educators, and other stakeholders to ensure equitable access to quality education for all students.

Conclusion and Suggestions

The COVID-19 pandemic has wreaked havoc on the global education system, exposing its vulnerabilities and inequalities. Despite attempts to continue education through distance learning, this approach proved ineffective for many due to the lack of access to digital tools, particularly among economically disadvantaged students. The repercussions of the educational losses incurred during the pandemic will be felt for years to come. The crisis has underscored the challenge of balancing the right to education with the imperative of safeguarding public health, both of which are fundamental human rights enshrined in international law. School closures disproportionately affected students from lower socioeconomic backgrounds, who often lacked internet connectivity and necessary devices for online learning. Additionally, teachers struggled to adapt to online teaching methods, lacking prior training in distance education. To mitigate the adverse impacts of COVID-19 on the education system, India must formulate policies that prioritize the needs of students and educators. A human rights-based approach should guide decision-making to ensure that measures taken during future crises do not exacerbate existing inequalities in access to education. Bridging the digital divide is imperative, with efforts aimed at providing every student with internet access and digital devices essential for online learning. Furthermore, comprehensive training programs should be instituted for teachers to effectively utilize online platforms, supported by the provision of adequate digital resources. In essence, addressing the fallout of school closures necessitates a multifaceted approach that addresses structural inequalities, enhances digital infrastructure, and equips educators with the necessary skills to navigate the challenges of remote learning. Only through concerted efforts can India mitigate the long-term impact of the COVID-19 pandemic on its education system and uphold the right to quality education for all. Addressing the digital divide in education during and beyond the COVID-19 pandemic requires concerted efforts from governments, policymakers, educational institutions, and civil society organizations to ensure that all students have equal access to quality education, regardless of their socio-economic background or geographic location. This may involve investing in

infrastructure, providing subsidies for internet access, training teachers in online pedagogy, and developing multilingual educational resources tailored to diverse learning needs.

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