

Overcoming Obstacles: Upholding the Right to Education in India Amidst Covid-19

*Syed Wajid-ul-Zafar**

Abstract

In the wake of the unprecedented challenges posed by the COVID-19 pandemic, the imperative of ensuring the right to education has become increasingly salient, particularly in countries with vast and diverse populations like India. This paper aims to comprehensively explore the multifaceted landscape of implementing measures to safeguard the right to education in India amidst the ongoing pandemic. By examining the intricate interplay of socio-economic, technological, and policy dimensions, it seeks to provide a nuanced understanding of the strategies adopted by governmental and non-governmental entities to mitigate disruptions in education delivery. Furthermore, the paper critically evaluates the efficacy of these measures in addressing the needs of marginalized and vulnerable groups, shedding light on the persisting disparities exacerbated by the pandemic. By identifying both successes and challenges, it contributes to the ongoing discourse on the global imperative of adaptable frameworks to safeguard fundamental rights amidst unprecedented crises, thereby advocating for a more inclusive and equitable education system in India and beyond.

Keywords: *Right to Education, Covid-19 Pandemic, Children, Measures, Government, marginalized, unprecedented crises.*

Introduction:

The COVID-19 pandemic has triggered unparalleled disruptions across various sectors globally, including the education system in India. In a country where the right to education is constitutionally guaranteed, the pandemic's effects on education have been extensive and varied. With nationwide lockdowns and the closure of educational institutions, the rapid shift to remote learning methods has presented both obstacles and opportunities for ensuring the right to education for children in India. Enshrined in Article 21A of the Indian Constitution, the right to education promises free and compulsory schooling for all children aged 6 to 14. However, the pandemic has exposed existing weaknesses within the education system, amplifying inequalities in access to quality education. Vulnerable communities, particularly those from marginalized socio-economic backgrounds, rural areas, and remote regions, have borne the brunt of these disparities, facing limited or no access to digital infrastructure, devices, and reliable internet connectivity, thus widening the digital divide. Given this context, it is crucial to understand the impact of COVID-19 on children's right to education in India. This

*Lecturer, Sopore Law College, Jammu & Kashmir

research aims to introspect the various dimensions of this impact, examining the challenges encountered by different population segments, the effectiveness of government interventions, and the emergence of innovative solutions to mitigate pandemic-induced disruptions. Additionally, the study seeks to analyse the ramifications of these disruptions on the broader socio-economic landscape, including long-term educational outcomes, employment prospects, and social mobility. By shedding light on the intricacies of educational disruptions caused by the pandemic, this research aims to inform policy discussions, advocacy endeavours, and strategic interventions aimed at safeguarding and enhancing the right to education for all children in India, particularly during crises.

Originating from a virus identified in December 2019 in Wuhan, China, the COVID-19 pandemic represents a severe global health crisis. Belonging to the family of viruses known for causing respiratory infections, COVID-19 rapidly spread, leading the World Health Organization to declare it a pandemic by March 2020. The virus has caused significant devastation, with over 7 thousand reported deaths and more than 2 lakh confirmed cases worldwide by that time. Governments worldwide responded by implementing stringent lockdown measures to curb its spread. To date, the pandemic has claimed the lives of approximately 63 lakh individuals and directly affected around 560 million people. Its impact extends beyond public health to various aspects of human rights, notably the right to public health and education, both enshrined in international human rights treaties like the International Covenant on Economic, Social and Cultural Rights (ICESCR). The ICESCR asserts the right to mental and physical health for every individual, mandating state parties to undertake 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 around 1.6 billion students across 190 countries, comprising 94% of the world's student population. The closure of educational institutions aimed to contain the virus and protect the right to life, a fundamental obligation of governments. However, prolonged closures, as observed in India and elsewhere, necessitated the adoption of distance learning methods, primarily through technology. Nevertheless, this transition posed challenges, especially in countries like India where internet access and technological resources are not universally available. Consequently, many students, particularly schoolchildren, experienced academic setbacks due to difficulties in adapting to online learning. The Committee on Economic, Social and Cultural Rights (CESCR) underscores the interdependence of human rights, emphasizing that the right to health relies on other rights such as education, dignity, equality, and access to information.

Hence, even during emergencies like the COVID-19 pandemic, state parties must uphold all human rights without discrimination, including the right to education. Governments must ensure equitable access to education for all children, irrespective of their socioeconomic status or background. In addition to examining the immediate challenges posed by the pandemic, this research will also explore potential long-term consequences such as learning loss, educational inequality, and the exacerbation of pre-existing disparities. Furthermore, it will assess the roles of various stakeholders, including government agencies, educational institutions, civil society organizations, and the private sector, in addressing these challenges and fostering resilient, inclusive, and responsive education systems that cater to diverse learner needs. By critically analysing the impact of COVID-19 on the right to education in India, this research seeks to contribute to the growing literature on educational disruptions during crises, offering valuable insights for policymakers, educators, researchers, and advocates working towards ensuring equitable access to quality education for every child, regardless of their socio-economic background or geographical location.

Right to Education: International Position

Human rights are inherent to all individuals solely by virtue of their humanity. They are universal and unalienable, and nations that have ratified international human rights treaties are obligated to uphold, promote, and incorporate these rights into their domestic legislation. These rights are not bestowed by rulers but are intrinsic to every individual, establishing the fundamental standards necessary for a dignified existence. The right to education has been recognized as a significant human right in various international and regional human rights agreements. **Nelson Mandela**, a renowned champion of social reform, famously remarked, "*Education is the most powerful weapon which you can use to change the world.*" Similarly, former United Nations Special Rapporteur on the Right to Education, **Katarina Tomasevski**, stressed, *that education must be accessible, adaptable, acceptable, and available to all 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 should promote and safeguard the right to education in their domestic laws without discrimination. For example, 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, irrespective of factors such as religion, ethnicity, or political affiliation. 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. The right to education, as enshrined in Article 26(1) of the **United Nations Universal Declaration of Human Rights (UDHR)**, stands as a fundamental pillar of human rights, advocating for universal access to knowledge and learning opportunities. This foundational principle emphasizes that every individual, regardless of their background or circumstance, possesses the inherent right to pursue education. It not only declares education as a basic entitlement but also underscores its critical role in shaping individuals' lives, fostering personal development, and empowering communities. Within the **UDHR** framework, Article 26(1) delineates key provisions to ensure the realization of this right. It stipulates that education should be freely accessible, particularly at the elementary and fundamental levels, thus removing financial barriers that could impede access to learning. Moreover, the declaration mandates compulsory elementary education, emphasizing the importance of ensuring that all children receive a basic level of education necessary for their intellectual and social development. Furthermore, the declaration emphasizes the significance of providing technical and professional educational opportunities widely, recognizing the importance of equipping individuals with practical skills and expertise to thrive in various fields. Additionally, it underscores the principle of equal access to higher education based on merit, advocating for a level playing field where individuals can pursue advanced studies and fulfil their potential regardless of their socio-economic status or background.

The commitment to the right to education is not confined to the UDHR alone; it has been reaffirmed and bolstered through subsequent international agreements and conventions. For instance, the 1960 UNESCO Convention Against Discrimination in Education explicitly prohibits any form of discrimination in educational settings, ensuring that education is accessible to all without prejudice. Similarly, the 1981 **Convention on the Elimination of All Forms of Discrimination against Women** recognizes the importance of ensuring gender equality in education, advocating for the empowerment of women and girls through equal access to educational opportunities. Moreover, the **African Charter on Human and Peoples' Rights** further reinforces the right to education within the African continent, affirming the collective commitment of African nations to provide quality education for all individuals, irrespective of their background or circumstances. These international instruments collectively underscore the global consensus on the indispensable role of education in promoting human dignity, fostering social progress, and advancing the principles of equality and justice. In essence, the right to education serves as a cornerstone of human rights, embodying the belief that access to knowledge and learning is not merely a privilege but a fundamental entitlement that must be upheld

and protected by societies worldwide. Through collective action and steadfast commitment to this principle, nations can work towards building a more inclusive and equitable world where every individual has the opportunity to fulfil their potential and contribute meaningfully to society.

Importance of the Right to Education in India

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. Furthermore, elementary education is a statutory right in India, obligating 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, underscoring its commitment to education. Approximately 120 million children in India benefit from the Mid-day Meal Scheme, which provides 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, acting 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 efforts to ensure universal education, a significant number of children in India remain out of school, posing a considerable concern. Expanding on the importance of the right to education in India, it serves as the cornerstone of societal progress, economic development, and the fulfilment of individual potential. By ensuring universal access to quality education, India can address various social and economic challenges, foster inclusive growth, and empower its citizens to contribute meaningfully to the nation's development. Moreover, education is instrumental in breaking the cycle of poverty and inequality. It equips individuals with the knowledge, skills, and abilities necessary to secure better employment opportunities and improve their socio-economic status. Additionally, educated citizens are more likely to participate actively in democratic processes, advocate for their rights, and contribute positively to their communities. Furthermore, the right to education plays a crucial role in promoting gender equality and empowering women and girls. Access to education enables girls to break free from traditional gender roles, pursue higher education and career aspirations, and make informed choices about their lives. Empowering women through education not only benefits them individually but also contributes to the overall socio-economic development of the nation. Additionally, education fosters social cohesion and promotes

tolerance and understanding among diverse communities. By providing equal educational opportunities to all segments of society, regardless of caste, creed, religion, or socio-economic background, India can bridge existing divides and build a more inclusive society. Investing in education yields long-term benefits for the economy by cultivating a skilled workforce, fostering innovation and entrepreneurship, and driving technological advancements. A well-educated population is essential for attracting foreign investment, stimulating economic growth, and enhancing global competitiveness. In conclusion, the right to education is indispensable for India's journey towards social justice, economic prosperity, and national development. By prioritizing education and ensuring its universal availability and quality, India can unlock the full potential of its citizens and pave the way for a brighter and more equitable future.

To fulfil the mandate outlined in Article 21(A), the RTE (Right of Children to Free and Compulsory Education) Act was enacted in 2009, coming into effect on April 1, 2010. The Act operates on the principles of the 4A's:

1. **Availability:** - It has been widely acknowledged that children from disadvantaged backgrounds often engage in labour to supplement family income, hindering their access to education. Availability ensures that education is universally accessible to every child, with the government bearing all financial burdens associated with schooling. Adequate infrastructure and teaching resources must be provided to facilitate this.
2. **Accessibility:** - Many students face long commutes to reach the nearest school, leading to absenteeism. Accessibility dictates that educational facilities should be easily reachable from all localities, preventing any child from being excluded due to distance barriers.
3. **Acceptability:** - Deep-rooted caste and religious divides have historically affected educational access. Acceptability mandates that education be provided without discrimination based on these factors, ensuring that all children have equal opportunities to learn.
4. **Adaptability:** - Society undergoes constant change, necessitating educational curricula that evolve with the times. Adaptability requires education to align with shifting societal needs and norms, equipping students to thrive in a dynamic environment.

The Act stipulates the following provisions:

- Every child aged 6-14 has the right to free and compulsory education, with access to a nearby school until completion of elementary education.
- No financial burden should be placed on children that could impede their access to education.
- The government must provide the necessary infrastructure and training for teachers to ensure the provision of free and compulsory education to all children.
- Local authorities are tasked with ensuring the availability of schools, providing infrastructure and training for teachers, facilitating the admission of migrant children, and monitoring school functioning within their jurisdiction.
- Teachers are responsible for completing the curriculum within a specified timeframe and maintaining regular attendance and punctuality.

Effect of COVID-19 on the Implementation of Right to Education in India

The COVID-19 pandemic has had a profound and multifaceted impact on the implementation of the Right to Education (RTE) in India, affecting various dimensions of the educational landscape. One of the most immediate and visible effects has been the widespread closure of schools as a measure to contain the spread of the virus. This sudden disruption to in-person learning has affected millions of students across the country, disrupting their educational continuity and jeopardizing their right to receive an education. With schools closed, the education system had to rapidly adapt to remote learning modalities. While online education emerged as a viable alternative for some, it unveiled the stark reality of the digital divide in India. Many students, particularly those from rural or economically disadvantaged backgrounds, lacked access to the necessary technology and infrastructure required for online learning. This digital disparity has widened existing educational inequalities, marginalizing already vulnerable groups and hindering their access to quality education. Moreover, the quality of remote education has been a subject of concern. Schools and educators, unprepared for the sudden shift to online teaching, faced challenges in effectively delivering curriculum content and engaging students in virtual classrooms. As a result, the learning experiences of students varied widely, with disparities in access to resources and teacher support further exacerbating educational inequities. The socioeconomic repercussions of the pandemic have also played a significant role in undermining the Right to Education. Economic hardships, job losses, and increased poverty have forced many families to prioritize

immediate survival needs over their children's education. This has led to higher dropout rates, particularly among marginalized communities where access to education was already precarious.

Furthermore, the health and safety concerns associated with reopening schools have complicated efforts to resume in-person learning. Many parents remain apprehensive about sending their children back to school due to fears of COVID-19 transmission. Ensuring a safe learning environment while adhering to health protocols presents a formidable challenge for education authorities and school administrators. The closure of schools has also disrupted essential support services provided to students, such as nutrition programs. For many children from low-income families, school meals served as a crucial source of nutrition. With schools shuttered, children are at risk of missing out on these meals, exacerbating issues of malnutrition and food insecurity among vulnerable populations. Addressing the impact of the pandemic on the Right to Education requires a concerted and comprehensive response from policymakers, educators, and civil society. Efforts to bridge the digital divide, provide equitable access to education, and support the holistic well-being of students must be prioritized. Additionally, targeted interventions are needed to mitigate learning loss, prevent dropout rates from escalating, and ensure that the most marginalized children are not left behind. Collaborative action and innovative solutions are essential to uphold the fundamental right to education for all children in India, even in the face of unprecedented challenges posed by the COVID-19 pandemic.

Initiatives of the Government of India for implementation of Right to Education during Covid-19

In the face of the unprecedented challenges posed by the COVID-19 pandemic, the Government of India has orchestrated a symphony of initiatives to ensure that the rhythm of education continues to play, albeit in a digital crescendo. Like a masterful conductor, these initiatives have harmonized the diverse strands of online learning, digital resources, and technological innovation to create a vibrant tapestry of educational opportunities for learners across the nation. At the heart of this orchestration lies SWAYAM, a virtual stage where the melodies of knowledge resonate freely. With its diverse repertoire of courses spanning from the melodic notes of primary education to the intricate harmonies of post-graduate studies, SWAYAM has become a beacon of learning, guiding students through the labyrinth of uncertainty brought about by the pandemic. In this digital symphony, DIKSHA emerges as a virtuoso, seamlessly weaving together the threads of e-content and QR-coded textbooks to create a seamless learning experience. Like a maestro

guiding his orchestra, DIKSHA conducts the flow of information, ensuring that every student has access to the rich tapestry of educational resources, regardless of their geographical location or socio-economic background. Under the baton of the PM e-Vidya program, a grand concerto of digital initiatives unfolds, encompassing online courses, educational TV channels, and the melodious cadence of radio broadcasts. These initiatives, akin to musical motifs, resonate across the educational landscape, providing a lifeline for students and educators alike amid the pandemic-induced turbulence. Amidst this digital symphony, the National Digital Library (NDL) stands as a majestic cathedral of knowledge, its vast repository of academic resources serving as a sanctuary for seekers of learning. Here, amidst the hallowed halls of literature and scholarship, students and educators find solace and inspiration, as they navigate the uncertain seas of online education. As the digital opus unfolds, e-Pathshala emerges as a lyrical ode to the spirit of innovation and accessibility. With its treasure trove of digital textbooks and supplementary materials, e-Pathshala becomes a guiding light for students, illuminating their path towards academic excellence even in the darkest of times. In this grand symphony of education, the government's support for institutions serves as the cornerstone, providing the financial and infrastructural support needed to orchestrate the transition to online teaching. Like a beneficent patron of the arts, the government nurtures the seeds of knowledge, ensuring that they blossom and flourish in the fertile soil of digital innovation.

Yet, amidst the digital cacophony, one theme rings clear - the promotion of digital literacy. Like a leitmotif running through the symphony, efforts to promote digital literacy resonate across the educational landscape, empowering students, teachers, and parents alike to navigate the digital realm with confidence and proficiency. In this grand symphony of education orchestrated by the Government of India, every initiative, every resource, and every effort contributes to the rich tapestry of learning, weaving together the diverse threads of knowledge into a harmonious whole. As the melody of education continues to play, it serves as a testament to the resilience, innovation, and unwavering commitment of a nation to ensure that the flame of learning burns bright, even in the darkest of times. In conclusion, the Government of India's initiatives on education during COVID-19 reflect a profound commitment to ensuring that every child has access to quality education, regardless of the circumstances. Through the strategic deployment of technology, the government has not only mitigated the disruptions caused by the pandemic but has also laid the foundation for a more inclusive and resilient education system for the future. As the symphony of education continues to play, it serves as a

testament to the power of innovation, perseverance, and collective action in times of adversity.

Conclusion and Suggestions

Conclusion:

The COVID-19 pandemic has starkly illuminated the fragility of education systems worldwide, and India has been no exception. Despite constitutional guarantees and legislative frameworks ensuring the right to education, the pandemic has revealed deep-seated disparities and vulnerabilities within India's educational landscape. From the abrupt closure of schools to the rapid shift to remote learning, the challenges have been multifaceted and daunting. However, amidst the turmoil, there have been commendable efforts by various stakeholders to mitigate the impact of the pandemic on education. Governmental initiatives such as SWAYAM, DIKSHA, and PM e-Vidya have leveraged technology to provide alternative learning opportunities. These initiatives, coupled with community engagement efforts and civil society interventions, have demonstrated the resilience and adaptability of India's education sector. Nevertheless, challenges persist, particularly in reaching marginalized and vulnerable populations. The digital divide, exacerbated by the pandemic, remains a significant barrier to equitable access to education. Economic disparities, lack of infrastructure, and social inequalities continue to impede efforts to ensure universal education.

Moving forward, several suggestions can inform policy and practice to strengthen the resilience of India's education system:

Address the Digital Divide: Prioritize initiatives to bridge the digital gap by expanding access to technology and internet connectivity, especially in rural and underserved areas. Provide subsidies or incentives for digital devices and internet services to economically disadvantaged families.

Enhance Teacher Training and Support: Invest in teacher training programs to equip educators with the skills and resources needed to effectively deliver remote education. Provide ongoing professional development opportunities and mentorship to support teachers in adapting to new teaching modalities.

Promote Inclusive Education: Develop inclusive educational practices that cater to the diverse needs of learners, including those with disabilities, language barriers, or learning difficulties. Ensure that educational materials and platforms are accessible and culturally relevant.

Strengthen Social Support Systems: Address socio-economic barriers to education by expanding social support programs, including meal provision, health services, and psychosocial support for students and families in need. Collaborate with community organizations and NGOs to reach marginalized populations.

Invest in Resilient Infrastructure: Improve infrastructure and facilities in schools to accommodate hybrid learning models and ensure safe reopening. Invest in sanitation, ventilation, and technology infrastructure to support blended learning approaches.

By implementing these suggestions and remaining committed to the principles of equity, inclusivity, and resilience, India can navigate the challenges posed by the pandemic and build a more equitable and responsive education system. While the road ahead may be fraught with obstacles, it is also paved with opportunities to reimagine and transform education for the betterment of all children in India. Together, we can ensure that every child has the opportunity to realize their right to education and unlock their full potential, regardless of the challenges they may face.

References

1. United Nations. (2020, August). Policy brief: Education during Covid-19 and beyond.
2. Viswanath, M. Right to education using human rights-based approach: A policy perspective for India. *Journal of Humanities and Social Science*, 19, 46-54 (2014).
3. Fredman, S. A human rights approach: The right to education in the time of COVID-19. *Child Development*, 92, 900-903 (2021).
4. Star, S. Impact of Covid-19 on right to education in India. In J. Russo (Ed.), *The yearbook of Education Law 2021* (pp. 280-282). Education Law Association (2021).
5. Kalra, M., & Jolad, S. (2021, August). Regression in Learning: The High Cost of COVID-19 for India's Children (ORF Issue Brief No. 484).
6. UNICEF. (2021). *Rapid Assessment of Learning during School Closures in the context of COVID*. New Delhi: UNICEF India Office.
7. Ministry of Human Resource Development, Government of India. (2020). *National Education Policy*.
8. *The Right of Children to Free and Compulsory Education Act, 2009*.
9. *Mohini Jain v. State of Karnataka*, AIR 1992 SC 1858.
10. *Unni Krishnan v. State of Andhra Pradesh*, 1993 9 SCR (1) 594.
11. *State of Punjab v. Mohinder Singh Chawla*, (1997) 2 SCC 83.