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Law Teaching after Covid-19 Pandemic from Indian Perspective: The Way Forward

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ABSTRACT

The Covid -19 pandemic had brought the globe to a standstill. The pandemic created unimaginable crisis for the entire world. The sudden outbreak of the pandemic brought a complete shutdown across the globe. The governments were not prepared and anticipated the spread of the virus. The only solution for the containment of the pandemic was complete lockdown, forcing people to work from their homes. The pandemic was one of the gravest health emergencies so all other essential services took a back seat. Education is one sector which was badly affected during the period of pandemic. The declaration of sudden lockdowns led to the closure of schools, colleges and universities. The impact of pandemic in India was also grave. In this paper, an attempt has been made to analyze the imparting of legal education in times of crisis and suggestions will be provided for meeting such situations in future.

Keywords: *Pandemic, Crisis, Education.*

I. INTRODUCTION

The crisis of any kind creates a vacuum which needs to be fulfilled by the prompt action of the government. The citizens look for the solutions from the government of the time. The Covid-19 pandemic sent shock waves in different countries. The government had no experience in combating with such crisis. For the purpose of preventing the containment of the virus, the governments being faced with a novel situation resorted to lockdowns. There were hearts wrenching scenes of keeping citizens forcefully in their homes. Thus India was not exception to this situation. The pandemic has affected India socially and economically.

To prevent the citizens from any kind of crisis, the government of India also adopted the simple method of lockdown and imposed curfew in some areas. The lockdown led to the closure of everything in India with the only exceptions of medical needs. The education is one sector which has suffered the jolt of pandemic and till date the education sector is reviving itself in the post pandemic period.² Education in all spheres especially the teaching of legal education

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² Gope, P. C., Gope, D., & Gope, A. (2021). Higher Education in India: Challenges and Opportunities of the COVID-19 Pandemic. Asian Journal of Distance Education, 16(1), 54-73, available at: <http://www.asianjde.com/ojs/index.php/AsianJDE/article/view/527>

became very difficult in the situation of lockdown. The complete lockdown was declared without laying any kind of guidelines on the part of the government. There were no instructions from the side of the government with regard to catering to the needs of the students during pandemic. Most of the educational institutions resorted to their own methods of teaching.³

Teaching of law during crisis was an enormous task for the law colleges and universities in India. The institutions with good infrastructure were able to cope with the needs of students. The schools lacking resources were not in a position to fulfill the educational needs of the students.

II. EDUCATION AND HUMAN RIGHTS

Education is the basic human right of every citizen in the country. Education helps in the overall growth of the personality of the citizen. Denying a right to education is the violation of the human rights. Education has been regarded as human right in international instruments and many civilized nations have also elevated this right to the level of human rights.

(A) Universal Declaration of Human Rights, 1948

The Universal Declaration of Human Rights is the first document which is universally accepted by all the civilized nations. This document is one of its own kinds which provide a comprehensive guide on the basic human rights which are common to all men and women. The document is representative in the sense that different representatives from different cultures and background participated in providing a universal idea about human rights. The UDHR covers different aspects relating to the overall growth of human personality. The document also recognizes education to be a basic human right.⁴ Article 26 of the Declaration recognizes the right of education for everyone. It provides that education has to be free at least at the elementary and fundamental level. Basic education should be made free at the elementary level and access to professional education should be provided to all without any discrimination on the basis of merit. The parents are given choice to choose the kind of education to be imparted to their children. Thus the UDHR is milestone declaration for protecting the right to education of the citizens.

(B) UNESCO Convention against discrimination in Education, 1960

The Convention is one of the first legally binding instruments for right to education.⁵ The

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³ Ibid.

⁴ Tristan McCowan (2010) Reframing the universal right to education, *Comparative Education*, 46:4, 509-525, DOI: 10.1080/03050068.2010.519482.

⁵ UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December

Convention recognizes the education at all levels and includes access to education and quality of education. Article 4 provides that standard of education should be same for all the educational institutions. Article 5 provides for the right of the minority educational institutions for education.

(C) International Covenant on Social, Economic and Cultural Rights, 1966

The International Covenant on Social, Economic and Political Rights, 1966 is based on the principle of self-determination. It recognizes the social, economic and political rights of the citizens. This Covenant has also recognized education to be the core principle for achieving the social, economic and political rights of the citizens. Article 13 of the Covenant also lays stress on right to education for everyone. The purpose of the education is overall development of the human personality and at the same time maintaining the dignity of the individual. The state parties will make endeavor to provide free education at the primary level and efforts will be made to provide higher education to all without any discrimination.

(D) Convention on the Rights of the Child, 1989

The Convention was adopted in the background of changing scenario at the world level. This convention aims to protect and fulfill the right of every child. Article 28 of the Convention in particular recognizes the educational right of every child. It provides that primary education should be free and compulsory. State parties will make efforts for providing free education and financial need.⁶ To encourage the students for education and reducing the dropout rate, Article 29 provides that education be so imparted that the overall personality including mental and physical abilities are developed.

These are the certain instruments dealing with education at the international level. The idea behind these instruments is to promote education and provide equal access to all in matters of education without any kind of discrimination.

III. RIGHT TO EDUCATION – INDIA

The Constitution of India is based on the edifice of equality, liberty and dignity of the individual.⁷ The Constitutional scheme is framed that the dignity of individual is placed on a very high pedestal. It implies the obligation on the part of the government to create such conditions for the development of the personality of the individual. India being a welfare state

1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <https://www.refworld.org/docid/3ae6b36c0.html> [accessed 6 June 2023].

⁶ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <https://www.refworld.org/docid/3ae6b38f0.html> [accessed 6 June 2023].

⁷ Basu, Durga Das, et al. *Introduction to the Constitution of India*. Wadhwa, 2001.

provides equal opportunities to all the citizens as far education is concerned.

The right to education can be found implicit within Article 21 of the Constitution of India.⁸ Article 21 is known as the heart of the Constitution and is the most living and organic article. It deals with right to life and personal liberty. The judicial interpretation of Article 21 has elevated to the level of most pious article in the Constitutional scheme. In many cases the Supreme Court has read that right to education is a fundamental right of the citizens.

In the case of *Bandua Mukti Morcha v. Union of India*⁹, the Supreme Court of India has reiterated that article 21 also includes the educational facilities. The dignity of the education directly emanates from Article 21 and right to education. In the case of *Mohini Jain v. State of Karnataka*¹⁰ and others, the court in the context of Article 21 held that the charging high fee for admission is violation of right to education. Again in the case of *Unni Krishnan v. State of A.P.*¹¹, the Supreme Court of India has again asserted that right to education is fundamental right which is read in Article 21 of the Constitution of India.

To give practical shape to right of education, Article 21A¹² was added in the Constitution of India by Constitution 86th Amendment Act in the year 2002. It provides for free education to children in the age group between 6-14 years. For implementing this article in letter and spirit the government enacted the Right of Children to Free and Compulsory Education Act, 2009. To further strengthen this law, the Supreme Court of India has stressed in the case of *Environment and Consumer Protection Foundation V. Delhi Administration*¹³ for six monthly reports from schools regarding the provision of separate toilets for girls and boys, class rooms and appointment of qualified staff.

In the case of *Bhartiya Seva Samaj Trust Press v. Yogeshbhai Amblal Patel*¹⁴, the court laid that there is a relationship between Article 21 and Article 21 of the Constitution of India. As without basic education, no citizen is in a position to know his/her fundamental rights.

Thus India has fulfilled its obligations under the various instruments with regard to providing access to education to all the citizens of the country.

⁸ Article 21, "No person shall be deprived of his life or personal liberty except by a procedure established by Law." The Constitution of India, 1950.

⁹ AIR 1984 SC 802.

¹⁰ AIR 1992 SC 1858.

¹¹ AIR 1993 SC 2178

¹² Article 21A, "The State shall Provide free and compulsory education to all children of the age of six to fourteen years in such manner as the state may, by law, determine".

¹³ AIR 2013 SC 1111.

¹⁴ AIR 2012 SC 3285.

IV. REGULATION OF LEGAL EDUCATION IN INDIA

The basic objective of imparting legal education is not only to produce professional lawyers but to inculcate the law students to perform varied roles in society. The legal profession is different from other professions in the context of that the lawyers being learned of their rights and obligations owe sense of responsibility towards the society.

The professional legal education in India is regulated by the Bar Council of India. The Bar Council of India is the governing statutory body constituted under the Advocates Act, 1961. The Bar Council has been imbued with powers to regulate the legal education and lay down uniform standards with regard to law schools, colleges and universities in India.¹⁵ The council with regard to requirement prescribes rules for legal education such as for infrastructure, class size, intake of students and number of seats and appointment of regular qualified teachers. The Council provides for three year law degree after graduation and integrated five year law degree. The Bar Council works at the national level and state Bar Councils govern the colleges in their respective states. The Bar Council has laid down guidelines during the Covid-19 pandemic so that the studies of the students are not affected.

(A) Crisis and Law Education

The various international instruments, conventions and domestic laws point towards the role of education in shaping the overall personality of a citizen. The right to education has been regarded as the basic human right which the government needs to secure at all costs. The citizens cannot be awakened about their rights and obligations in the absence of the education. Thus it becomes the responsibility of the state to provide education even in the times of crisis. The covid-19 breakdown in the country gave jolt to the prevailing education system and exposed the various weaknesses of the education system. The legal education is very important as it requires skill to be inculcated in the initial years.

The covid-19 pandemic was a health emergency so not much attention was paid to education during this time. The lockdown in entire India led to the closure of the educational institutions. Hence the law schools and colleges were baffled as no guidelines were laid down by the government to deal with the education. Most of the educational institutions were converted into quarantine centers for preventing the spread of the virus.¹⁶

The right to education during crisis and lackluster attitude of the government revealed the apathy of the law schools. Despite the fact of uniform standards as provided by the Bar Council

¹⁵ N.R Madhava Menon, *Clinical Legal Education 2* (Eastern Book Company, Lucknow, 1st edn.,1998).

¹⁶ Llewellyn, Karl N. "Current Crisis in Legal Education, The." *J. Legal Educ.* 1 (1948): 211.

of India, most of the institutions lacked in catering to the needs of the law students. The private institution with modern infrastructure was able to fulfill the educational needs but the institutions lacking in infrastructure or those in rural arrears could not manage. The lack of motivation on the part of the students was also contributory to the fact of laxity.¹⁷ The information technologies were utilized for providing education and exposed the existing digital divide. The ICT tools put a financial burden on the schools and students. The law schools and colleges adopted different online platforms like Google Classroom and Zoom. But the students for this purpose required strong internet connections, smart phones and other electronic gadgets like laptops to be a part of virtual classroom. The sudden transformation from physical classrooms to virtual classrooms led to further widening of the gap. The legal institutions had their financial interest in imparting law teaching online but this placed an additional burden on the pockets of the parents.

The virtual classrooms being a novel concept, it was difficult both for the law teachers and students to adapt to technology. As in the traditional method of law teaching emphasis is given on lecture method, discussion method and case studies.¹⁸ There were no uniform guidelines laid for adapting to online modes of teaching. The various law schools depending on the accessibility adopted their methods of teaching. The unannounced lockdown gave very less time to the schools and teachers reading planning of imparting virtual education. The poor students who could not afford online modes suffered the most. The government did not provide any help for facilitating internet to the students.

V. TECHNOLOGY AND NEW PEDAGOGY

Technology has great impact on the legal profession and legal education. With the advancement of technology, the dependency of legal education can be seen as was the case during crisis when legal education was provided with the availability of minimum resources. The use of video technology is the new teaching aid adopted during the crisis. In such pandemic situations it is realized that technology has a role to play in connecting people. With the help of technology, the students and teachers could interact with each other. Keeping in mind such crisis for future, the evolving new pedagogy is the need of the hour.¹⁹ The crisis has changed the teaching and learning process. It has provided an alternative that the students in the comfort of their homes

¹⁷ Felman, Shoshana. "Education and Crisis, or the Vicissitudes of Teaching." *American Imago* 48.1 (1991): 13-73.

¹⁸ Hugh Brayne, Nigel Duncan, *et.al.*, *Clinal Legal Education* 14 (Oxford University Press, New Delhi, 1st edn., 2003).

¹⁹ Harpreet Kaur and Anmolpreet Kaur, *200 Laws on Education* (Swaranjali Publications, Ghaziabad. 1st edn., 2020).

can be educated but at the same time making students more comfortable. The online law teaching was found to be very easy as it was the fulltime job of the teacher. The technology and the pedagogy being in the nascent stage, a check could not be kept on the students whether they are seriously attending virtual classes or not.²⁰

The crisis also provided for online examinations for students. Sitting in the comfort of the home and giving examinations as open book made the task easy for the students. For teachers to evaluate answer sheets online proved to be herculean task. Thus innovation is required for evolving new patterns of examination, so that students can have faith in the evaluation.

(A) Inclusive Teaching

The use of technology for the purpose of law teaching during crises has evolved a new pedagogy of inclusive teaching. The inclusive teaching implies that no student be deprived of legal education despite of the many hardships. There is a need for blending of face to face and online law teaching. This also casts a responsibility on the public authorities to sensitize schools and colleges for adapting to the limited online modes of teaching so that the interest of law students is not vitiated. The flipped classroom teaching adapted itself to the online mode and videoconferencing for interacting with students.

The inclusion of students in law teaching can be achieved by developing computer literacy among students.²¹ The students can be encouraged to learn the basics of computer applications as most of the legal literature is available online. Technology may not be within the reach of students, it could be beyond the comprehension of some of the teachers or students. There is need of inculcating computed assisted technology culture among the students.

The National Law schools in India provided with the state of the art infrastructure. In such schools the students are already adapted to the use of ICT tools. In traditional law colleges and universities use of technology may be beyond the competency of both the institution and law students.

VI. THE WAY FORWARD

The use of technology and computer applications as a teaching aid has increased tremendously during pandemic situation. It was perfect example of connecting people across the globe through series of webinars organized by different law schools not only in India but abroad also.

²⁰ Grossman, Pam. "Responding to our critics: From crisis to opportunity in research on teacher education." *Journal of teacher education* 59.1 (2008): 10-23.

²¹ Oyedotun, Temitayo Deborah. "Sudden change of pedagogy in education driven by COVID-19: Perspectives and evaluation from a developing country." *Research in Globalization* 2 (2020): 100029.

The limitations of geographical boundaries were reduced with the use of technology. For a country like India in a developing stage, the problems are surmountable. The poor and disadvantaged sections cannot afford technology. Though the government of India has carved out many schemes for digital India but still there is need to develop digital literacy. To meet the gap of digital divide and to make the teachers and law students computer proficient, there is need for adapting to this culture of technology. The following are certain suggestions to improve the teaching of law during the time of crisis:

1. The government needs to provide such infrastructure to those schools and colleges which are lacking in this. A uniform standard be provided to schools located in rural areas.
2. The teachers for developing skills and competencies in digital classrooms need to adapt to digital environment.
3. The role of the teacher has to transform as facilitator conceptually, technologically and pedagogically.
4. Training of teachers for blended mode of teaching.
5. The learners need to adapt themselves to learn from the comforts of their home and at the same time maintaining the etiquette of virtual classroom.
6. Online learning of law aims at equipping the students for the use of technology.
7. The development of new tools and resources may be computer applications or programmes can be encouraged.
8. Teachers can prepare short videos of their lectures and share with students.
9. The E-content can be prepared and collected from different sources like OER or any other online platform.
10. The e-content can be developed with the help of different softwares like screencastify, audacity, e-tutorial etc.
11. The e-content can be disseminated with the help of moodle, swayam and blackboard platforms etc.
12. The use of technology for legal education can further help law students facilitate the use of law in administration of justice.

VII. CONCLUSION

The way world is moving at a pace of technological development, hardly any human activity is

left which is not affected by computers. The right to education is recognized as one of the basic human rights. The halting of teaching in times of crisis is the violation of the right to education. The pandemic has made the picture very clear that in future if such situations are repeated, the lockdowns are no solutions. The legal education curriculum has to be redesigned keeping in mind any unforeseen event. The law teaching has to be transformed with the help of technology. The use of computer applications and technologies can be a great help in keeping the students adapt to digital literacy. The world today is influenced by virtual environment, so to survive in this environment the law teaching has to be remodeled focusing on blended mode of teaching. During times of normalcy also flipped classroom should be adopted. The basic purpose of imparting legal education with the help of technology is to develop virtual environment keeping in view the needs of each and every student. The welfare state also needs to provide free or subsidized internet packages for continuous law teaching. The framework be developed keeping in mind such pandemics in future.
