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AN ANALYSIS OF LEGAL EDUCATION IN INDIA

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ABSTRACT

In addition to providing procedures, skills, and competencies, legal education also provides the fundamental philosophical and ideological foundations, as well as criticisms, and instruments, all geared toward the establishment and preservation of a fair society. As a result, it gives opportunities for the formulation of theories of a fair society, while also teaching us that such formulations must be rooted in historical facts in order to bring the truth about the operation of the legal system to the fore. In view of its dynamic role in shaping and envisioning the legal system of the country—and thus being instrumental in the accomplishment of the cherished objectives of justice, liberty, equality, and fraternity of a sovereign, socialist, secular, democratic republic—it is a subject of great importance. Legal education encompasses a wide range of topics. It encompasses the practise of law in courts, law education, law research, administration in various sectors of government where law plays a role, commercial and industrial employment, and any other activities that presuppose and need the use of legal knowledge and expertise. In this article the author presents a analysis of online education of India and its disadvantages like cyberbullying etc. Also, in the conclusion the author finds that online education is burdened on India without proper preparation and resources.

Keywords: Online Education, Legal Education, Cyberbullying.

INTRODUCTION

In 1997, Peter Martorella presented a unique approach to technology. “He described technology in education as ‘a sleeping giant’ that would transform how teachers planned, how students learned, and how schools were organized.” Considering that period, it looked a bit far-

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fetched. Over the last several decades, this view has certainly evolved. “The Spread of. Today, a third of American children regularly use computer tablets, while over 40% use smartphones and 53% regularly use laptops in their home.” This might sound promising to the privileged section of the society, yet the technology requires a considerable amount of direction and amendments to cater to the larger section of the society.

India began a bit late in the race of Online Education. The wave of a digitalized education system, basically about Higher education, began as Correspondence Courses started by Delhi University in 1962. This was done to satisfy the hunger for higher education in the newly liberated country. Energized by the achievement, the Training Commission suggested the development of correspondence instruction for different purposes. Soon after University Grants Commission¹ formed and embraced rules to incorporate the courses in Indian Colleges. With the advent of the coronavirus, the need for distance learning through online mode just increased in a multifold manner. Privilege turned into a necessity and that's where the problem began. An upsurge in the number of people accessing the online mode of education increased its reach but decrease its effectiveness and went on to create more problems than solutions.

THE DISADVANTAGE OF ONLINE EDUCATION

“This technology was seen, by most of us, as a sort of ‘fail-safe’ - a fallback option for students who lost their work or missed class, or for parents who wanted to keep track of their child's progress.” Soon the bubble of all good things buried. Once the true character of online classes began to appear, the problems of accessibility and affordability began to surface. The entire potential of online classes proved to be more disastrous than beneficial. Besides the points of being affordable, online classes also created mental havoc and pressure on students and teachers. “Research suggests that socioeconomically disadvantaged and less academically prepared students are much more likely to struggle in online courses and that achievement gaps between low-income students and their more affluent peers are larger in exclusively online courses.” The condition just seems to worsen, considering the current pandemic situation. Online Education has no longer remained a choice, it has turned into a compulsion. With everyone confined within the safety of their homes, Online classes have just added an unnecessary burden. The burden is not just limited to physical attributes but has added to a lot of other issues like, “familial, financial, health, and otherwise—which will also likely influence their learning and persistence.”

¹ 'Welcome To UGC, New Delhi, India' (Ugc.ac.in, 2021) <https://www.ugc.ac.in/> accessed 10 June 2021.

Face-to-face learning and human interaction cannot be replaced by an Artificial Intelligence approach and computerized learning. To make an informed choice, the research has also encapsulated the advantages of online classes. A doctrinal study of a survey that was performed in 2015 was conducted. “The survey, ‘Learning Environment Questionnaire’, queried students about perceived advantages and disadvantages of courses taught online and face-to-face”. Findings of the same turned out to be combined below.

Analyzing based on Communication, Course Content, Feedback, Flexibility, Travel, and Motivation, the survey analyzed the important aspects of learning. Students preferred offline classes in case of communication. While Online classes helped them to move at their own pace. The course content was won by the Online system of learning, due to the availability of multiple courses enhancing their skills at the same time. Flexibility and Travel were also taken over by online learning. In Feedback and Responsibility, offline learning was preferred, since students could reach out to teachers whenever they were in doubt and the responsibility of maintaining discipline was not an onus on them. However, in this scenario, the drawbacks overpower and lead us to the legalities of the issue to understand it in a better manner.

CURRENT SCENARIO IN INDIA

Around, 22% of Indians still live below the poverty line². The people in India are still technologically challenged. In a country where the common man does not even have money and resource to sustain himself and his family, he is expected to make arrangements for electronic gadgets and an internet connection to make sure his children get access to the basic right of education.

An online study was conducted by Hindustan Times in times of pandemic.³ The study revealed. The absence of admittance to the Web and gadgets has likewise made a hole in computerized proficiency. 76% of students in India aren’t aware of computer usage. “The share of those who did not know how to use the Internet was 74.5%. Once again, this gap rises with a fall in income levels. 55% of students among the top 20% of households by monthly per capita expenditure (MPCE) knew how to use a computer and Internet while these proportions were only 9% and 10% among the bottom 20%.” “A sudden shift to online education can also strain their spending capacity. Rough estimates suggest pursuing online education can be very costly

² 'India's Poverty Profile' (World Bank, 2021)

<https://www.worldbank.org/en/news/infographic/2016/05/27/india-s-poverty-profile> accessed 10 June 2021.

³ 'Issues Facing Online Education' (Hindustan Times, 2021) <https://www.hindustantimes.com/india-news/issues-facing-online-education/story-SaG9rbmLRjRnALWqPspII.html> accessed 10 June 2021.

for the poorest households.” There has been a new education policy tabled in the parliament. NEP emphasizes trying to reduce drop-outs. This cannot happen to a complete extent if the virtual mode is considered the only mode of education. The virtual model can only succeed if the government ensures device and internet connection to the entire population.

Besides affordability, the lack or almost no sense of interactive communication, suppressed doubts leading to utter confusion reduces the advantages of online classes. They act more of a burden on the students keeping in mind their spree of distractions with the presence of social networking sites at the tip of their fingers without any surveillance. As Gearhart (2001) defined, “the impact of technology on teaching is significant, raising special and never before encountered concerns about various ethical and legal issues. Justifiably, it is essential to explore these major issues about the use of computer and internet technology-based education.”⁴

INTELLECTUAL PROPERTY LAW⁵

“As used in law, intellectual property refers to inventions, creative works, discoveries, know-how, show-how, or artistic works that have value, produced through human activities by individuals or entities”. Several individuals put in a considerable amount of time, energy, and resources in structuring their study material. But, with the advent of digital media, it has just become so much easier to copy the data, and the idea of copying and infringement increases. The files can transfer from one person to another through the way of electronic media and the Internet at the brink of time. With the mode of education also shifting to an online mode, the problem of Intellectual property rights being exploited has been increased. With everything being available online, the content can be easily copied, judged, and can even travel and plagiarized. For instance, in learning conditions like courses or colloquia, a considerable measure of new information can be created by educators as well as by students. On account of students, “the issue of who owns the material or who can license it can be controversial although some institutional policies apply a work-for-hire principle to their students.”

COPYRIGHT LAW

“Copyright law is the protection of an original work fixed in a tangible form; the work has to be embodied in a material object of some kind, such as the pages of a book, a canvas, or a computer storage device.” Online platforms are difficult to regulate and keep a check on. Content can be

⁴ (Files.eric.ed.gov, 2021) <https://files.eric.ed.gov/fulltext/EJ883873.pdf> accessed 10 June 2021.

⁵ Rich Stim, 'Overview Of Intellectual Property Laws' (Stanford Copyright and Fair Use Center, 2021) <https://fairuse.stanford.edu/overview/introduction/intellectual-property-laws/> accessed 10 June 2021.

copied and pasted from anywhere and everywhere without giving credit to the author. “All educational materials are copyrighted the moment they are created although there may not be any copyright notice.”

Although the connection of online education with copyright laws is pretty new, their misuse has already begun. Students and teachers copy-pasting someone else's content for their purpose without credits are creating havoc in online classes. This attitude and lack of a check for misuse of copyright laws are making the concept of online classes illegal and disadvantageous as well.

RIGHT TO EDUCATION ACT

The Government came up with the Right of Children to Free and Compulsory Education, 2010⁶. This act made it compulsory for the age group of 6 to 14 to receive primary education free of cost. This was done to mark the importance of education among all strata of societies. The act established that it is a fundamental right to get educated under Article 21A⁷. This act established that basic education does not differentiate between the rich and poor. Basic education is a necessity rather than being a privilege. To substantiate the theory one can refer to the case of *Unnikrishnan JP vs State of Andhra Pradesh & Others*⁸, The Court told, to regard a privilege as a fundamental right, it is not required for it to be explicitly expressed as one in Part III of the Constitution⁹: “the provisions of Part III and Part IV are supplementary and complementary to each other.” The Court dismissed that the rights reflected in the arrangements of Part III are better than the ethical cases and desires reflected in the arrangements of Part IV.

With the advent of online education, the entire system of free compulsory education went down the road. The provisions of incorporating and inculcating disadvantaged students at par with the privileged ones have now been left only on paper. With the entire education system shifting to an online mode, depending heavily on electronic gadgets good connectivity and, basic education has again been transformed into a privilege than being a necessity. Favoring a certain section of society, online classes do not guarantee equality and equity among students. With the presence of a legal provision that mandates free and compulsory education to every child, the online mode not only worries students but also makes their chances of a secure future at stake. Families who are struggling to make both ends meet have been brought under the added pressure of electronic gadgets to ensure basic education for their children. What was earlier the

⁶ The Right Of Children To Free and Compulsory Education Act, 2009 (Act No. 35 of 2009)

⁷ (2021) <https://www.education.gov.in/en/constitutional-provision> accessed 10 June 2021.

⁸ *Unnikrishnan JP vs State of Andhra Pradesh & Others*, (1993) AIR 2178,

⁹ The Constitution of India (Part III.—Fundamental Rights.—Arts. 18-19).

responsibility of the institutions to ensure primary education to children, now becomes a duty of the guardians and families by providing electronic gadgets and internet connectivity for the same. Thus, the provision of RTE goes against the nature of online education.

INTERNET ISSUES

Notwithstanding the huge base of web clients, the internet infiltration rate in the nation remained at around 50% in 2020. These astonishing figures go against the decision taken by the supreme court in *Anuradha Bhasin and Ors. Vs. Union of India (UOI) and Ors*¹⁰. It was held that the Internet is a fundamental right under the Right to life in Article 19. States like Jammu and Kashmir have had a serious connectivity issue ever since the abrogation of article 370. People have been in a disadvantaged situation ever since. In a situation like this where people of a particular state don't even have a continuous and proper internet connection the prospect of conducting online classes is just unfair.

A biased and unconcerned approach towards people who do not have a stable internet connection makes the provision of online classes a worrisome situation for the students making them undergo a tremendous amount of mental pressure and anxiety. The fear of being left out, the constant badgering of not being able to catch up with their peers, and adding unnecessary burden on their families for better electronic devices and an expensive data plan make the online classes a privilege just for the well to do families. In a country like India which is still struggling to make people borne out the poverty, the introduction of online education just favors only a particular section pushing the others back into the realm of poverty.

CYBERBULLYING

With the studies being shifted to the comfort of everyone's homes, it can be assumed that the criminal rates must have dropped. With the students being able to access their courses while sitting in the safety of their households, the instances of peer pressure and suicidal tendencies fear of falling behind should have taken a back seat. But unfortunately, that's not the case, with education being shifted online even the crimes have done the same with aggravated and more serious implications and offenses. One of the major forms of suppression that a student faces in an online mode of education is that of Cyberbullying.

¹⁰ *Anuradha Bhasin and Ors. Vs. Union of India (UOI) and Ors*, (2019) SCC OnLine SC 1725

Cyber Bullying is the movement of utilizing the Web to hurt or scare someone else particularly sending them unsavory messages. While devising the method and policies of online education, the framers are not discussing how students can't manage innovation and the cutoff points and limitations of that innovation, but instead a remarkable inverse of what students ought to do in the educational program, in evaluation, how instructors ought to do proficient advancement utilizing innovation. Early in April, UNICEF¹¹ had cautioned families about the uplifted danger of mischief as their lives moved internet during the lockdown. "Investing more energy in virtual stages can leave youngsters helpless against online sexual misuse and prepping, as hunters hope to abuse the Coronavirus pandemic," they said. One report was published by the India Children Protection Fund (ICPF) which showed that the demand and misuse of child pornographic videos and teenage sexting and cyber misuse have increased exponentially in the lockdown.

Now the problem with increasing cyberbullying these days is that The Indian Penal Code, 1860 ("IPC")¹², neither characterize bullying nor rebuffs it as an offense. Moreover, if the victim is a man, the law of cyberstalking would not be applied as well. In *Sazzadur Rahman vs The State of Assam*¹³, the court gave a striking decision for cyber staling being done against males of the country as well. This keeps students at a disadvantageous stance, where they have no proper remedy to the cyberbullying they face.

Another point of concern that has been brought to the researcher's notice is that fewer children have come forward to report cyberbullying ever since face-to-face interactions have been put on hold. Such behavior induces stress, anxiety, and social awkwardness in students. With everyone and everything being posted on social media networks, students are put under the feeling of inferiority. Such an unreal and filtered competitiveness among young minds corrupts their thinking and makes them under-confident of their entire personality. Students learning through apps and websites are open to the entire world of the dark web which is highly inappropriate and has drastic ramifications on young minds. Online education provides students with comfort, it snatches away their confidence.

CONCLUSION

Online education has taken over face-to-face interactional classes. They have been burdened on India without proper preparation and resources. While still struggling with the necessary problems of food shortage and poverty issues, it's not yet a good time to switch to virtual

¹¹ 'UNICEF In India' (Unicef.org, 2021) <https://www.unicef.org/india/> accessed 10 June 2021.

¹² (Ncib.in, 2021) <https://ncib.in/pdf/indian-penal-code.pdf> accessed 10 June 2021.

¹³ *Sazzadur Rahman vs The State of Assam*, (2020) SCC OnLine Gau 4886

interfaces entirely. Online classes have turned the education system into the privilege of the rich rather than being a necessity for everyone. The legal issues have been discussed and been highlighted to impress upon the issues of online education.

To pave the way forward, one needs to solve issues at the base level. Before upscaling our future approaches, Indians need to have basic access to internet connectivity and should have virtual education, just to ensure how to tackle technology. Innovation has consistently had an enchanting capacity to persuade us regarding the fast-approaching change. In 1922, Thomas Edison announced that films are "destined to revolutionize our educational system."

¹⁴Educators and students of history ought to stay mindful of such eagerness, however not to the degree that we lose our feeling of the marvelous prospects of such apparatuses."

¹⁴ 'When The Alma Mater Ends With '.Edu' (Published 1996)' (Nytimes.com, 2021)

<https://www.nytimes.com/1996/07/07/weekinreview/when-the-alma-mater-ends-with-edu.html> accessed 10 June 2021.