

The Right to Education in India: Challenges and Opportunities in The Wake of the Covid-19 Pandemic

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ABSTRACT

Education is a fundamental human right, as enshrined in the Universal Declaration of Human Rights, 1948, and reaffirmed by International Covenant on Economic, Social and Cultural Rights, 1966, the Constitution of India and the Right of Children to Free and Compulsory Education (RTE) Act, 2009. Despite these legal commitments, significant barriers continue to undermine the realization of this right, particularly in the context of the COVID-19 pandemic. This paper aims to analyze the challenges faced by India's education system in ensuring free and compulsory education, especially during the ongoing crisis. Drawing on recent reports such as the Annual Status of Education Report (ASER) 2017, World Bank, and Oxfam India, the research explores the persistent gaps in educational quality, teacher preparedness, infrastructure, and resource allocation. The pandemic has exposed and deepened existing inequalities, exacerbating the digital divide, disrupting learning, and amplifying socio-economic disparities. The paper further evaluates the effectiveness of the RTE Act in adapting to these challenges, proposing actionable solutions to bridge the gap between policy and practice. The study underscores the need for inclusive, equitable, and innovative strategies to ensure that every child—regardless of their background or location—can access quality education, even in times of crisis. Finally, the paper offers recommendations for addressing the immediate and long-term educational setbacks caused by the pandemic, aiming to strengthen the prospects of education in India's diverse socio-economic landscape.

Keywords: *Right to Education, COVID-19, Digital Divide, Educational Inequality, RTE Act, Education Policy, Socio-Economic Barriers.*

Everyone has the right to education". This principle is enshrined in Article 26(1) of the Universal Declaration of Human Rights (UDHR), 1948.¹ Access to education is a fundamental human right, as it provides children with the knowledge and skills to become responsible and active citizens of their country. Most notably, most of the human rights can only be accessed through education which operates as a multiplier enhancing the enjoyment of all individual rights and freedoms.² Education shall be free, at least in the elementary and fundamental stages. In India, this international commitment to education has been codified through the provisions of the Right of Children to Free and Compulsory Education (RTE) Act 2009, which

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came into force on 1st April 2010. The RTE Act explicitly defines the state's responsibility to provide free and compulsory education to all children aged 6 to 14 years.

According to the Annual Status of Education Report (ASER) 2017, over 50% of surveyed Indian students could not carry out basic division. A 2018 World Development Report ranks India 11th out of 12 countries where Grade ² students are unable to read or perform simple subtractions.³ These findings raise questions.

Right to free and compulsory education to children has also been recognised as a basic human right in Article 26 of Universal Declaration of Human Rights, 1948 and in Article 13(2)(a) of International Covenant on Economic, Social and Cultural Rights, 1966. regarding the quality of learning in India, as well as the value of the devised systems intended to assess Norms and standards relating to pupil teacher ratios (PTRs), buildings and infrastructure, school-working days, teacher-working hours, trained and educated teachers have seldom been realized till date. In 2018, Oxfam India analyzed the nine year progress of the Right to Education Act since its enactment in 2009. The observations highlighted significant lack of allocation of resources to education in general and elementary schools. This was far from satisfactory and needed immediate amends in order to improve overall learning outcomes of children.⁴ Some reports even hinted towards this fact that with the current rate of progress to ensure effective implementation of the RTE Act, it will take India 87 years to make every school compliant with its very minimalistic quality norms as mandated under aforesaid legislation.⁵ The basis of quality education entails inclusion and equity, and it's imperative to reach out to disadvantaged sections through inclusive policies and programmes. No doubt the government has also rolled down number of schemes⁶ to make right to education a livable reality for all sections but it would not be wrong to say that there is still a gap between theory and practice.

At this critical juncture, it is essential to identify the various barriers that continue to hinder access to free and compulsory education for children, especially in the context of the COVID-19 pandemic. The pandemic has exposed and deepened existing vulnerabilities in the education system, further complicating the realization of the RTE Act. In this unprecedented global crisis, the disruption caused by school closures, shifts to online learning, and socioeconomic setbacks has disproportionately affected children from marginalized communities.

In this context, the researcher aim to analyze and evaluate the state of children's right to education in India, with a particular focus on the challenges emerging during the pandemic. By identifying

² Kartarina Tomasevski, The Right to Education – A Discussion Source: International Development Cooperation Agency <http://www.sida.org>. (last visited on October 23, 2020).

³ Rewriting the National Education Policy: Shortcomings and Solutions, available at: <https://thebastion.co.in/politics-and-education/rewriting-the-national-education-policy-shortcomings-and-solutions> (last visited on October 23, 2020).

⁴ Available at www.oxfanindia.org/blog/10-things-rte. (Last visited on October 23, 2020).

⁵ Status of Implementation of The Right of Children to Free and Compulsory Education, 2009: A Draft Report Card (2014-2019), available at: rteforumindia.org (last visited on October 24, 2020).

⁶ Samagra Shiksha, Mid Day Meal, Scheme to Provide Quality Education in Madrasas (SPQEM), Scheme for Infrastructure Development in Minority Institutes (IDMI).

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and understanding these barriers, the objective is to propose solutions that can address these gaps and strengthen the accessibility and quality of education in India—across its vast and diverse socio-economic landscape.

Impact of the COVID-19 Pandemic on Education in India

The COVID-19 pandemic has exacerbated pre-existing challenges in India's education system, highlighting the deep-rooted issues that hinder access to quality education. In response to the global health crisis, schools across India were closed for extended periods, forcing a sudden shift to online learning. While this transition was necessary to mitigate the spread of the virus, it exposed several barriers to accessing education, especially for vulnerable groups. These challenges include:

a. **Digital Divide:** A significant barrier to online education has been the digital divide. Many students, particularly in rural and remote areas, do not have access to digital devices such as smartphones, tablets, or laptops, nor reliable internet connectivity. According to a 2020 report by the Azim Premji Foundation, about 40% of rural children lacked access to smartphones or other digital devices needed for online learning, making remote education inaccessible for a large segment of the student population.⁷ This divide is particularly pronounced among marginalized communities, exacerbating the inequalities in educational access.

b. **Widening Educational Inequalities:** The pandemic has disproportionately affected children from marginalized communities, further exacerbating existing educational inequalities. For instance, a report by the World Bank found that only 26% of rural households had access to the internet compared to 70% of urban households, exacerbating the already stark divide between the two groups.⁸

c. **Disruption in Learning:** The prolonged school closures and the lack of effective online learning solutions have resulted in significant learning loss. This is especially concerning for younger children, particularly those in the foundational years of education. According to the Annual Status of Education Report (ASER) 2020, learning outcomes for students in rural areas deteriorated significantly during the pandemic, with many children unable to engage with digital content or fall behind in their lessons due to insufficient resources.⁹ This disruption in learning has particularly affected early education, where children missed out on crucial foundational skills that are critical for their cognitive development and long-term academic success.

d. **Mental Health and Well-being:** The isolation caused by school closures and the shift to online education also took a toll on children's mental health and well-being. The absence of regular social interactions, physical activity, and the overall disruption to daily routines has been detrimental to children's emotional health. A 2020 study by UNICEF found that a large number of children

⁷ Azim Premji Foundation. (2020). The State of Education in Rural India during the Pandemic. Available at: <https://azimpremjiuniversity.edu.in/field-studies-in-education/loss-of-learning-during-pandemic>.

⁸ World Bank. (2020). India: Digital Divide and Education During the COVID-19 Pandemic. Available at: <https://www.weforum.org/stories/2020/10/how-covid-19-deepens-the-digital-education-divide-in-india/>

⁹ Annual Status of Education Report (ASER). (2020). The ASER 2020 Report. Available at: <https://img.asercentre.org/docs/ASER%202020/ASER%202020%20REPORT/aser2020fullreport.pdf>.

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reported feelings of anxiety, sadness, and loneliness due to the lack of in-person interactions and the challenges of adapting to online learning.¹⁰ The mental and emotional toll of prolonged isolation is particularly concerning, as it has affected children's motivation, engagement, and overall development, which are critical for academic success.

e. **Teacher Preparedness:** The transition to online education exposed the lack of preparedness among teachers, particularly in rural areas, to effectively engage students in a virtual classroom. A study by the Central Square Foundation (2020) revealed that many teachers lacked the necessary digital literacy, training, and resources to successfully teach online. While some teachers adapted quickly, others struggled to deliver effective lessons, further undermining the quality of education. In many rural and underserved regions, teachers did not have access to adequate technology or training, which hampered their ability to meet the needs of their students during the pandemic.¹¹

The COVID-19 pandemic has not only highlighted but also deepened the longstanding challenges to accessing quality education in India. Issues such as the digital divide, widening educational inequalities, disruption in learning, mental health concerns, and teacher preparedness have all emerged as critical barriers that urgently need to be addressed. These challenges are particularly concerning in the context of India's constitutional mandate to education under Article 21-A of the Indian Constitution, which guarantees the fundamental right to education for children between the ages of 6 and 14 years. In addition, the Right to Education (RTE) Act, 2009, which operationalizes this constitutional right, further reinforces the state's responsibility to provide free and compulsory education to all children in this age group.

As we look towards recovery from the pandemic, it is crucial to address these challenges to ensure that every child has access to quality education, regardless of their socio-economic background or geographical location. This is even more pressing when considering the legal obligations under both the Constitution and the RTE Act, which serve as the cornerstone of India's education policy. In this context, it becomes imperative to examine how the provisions of the RTE Act can ensure access to education in times of crisis, such as the COVID-19 pandemic. The RTE Act lays out specific responsibilities for the government and mandates certain standards for schools that can guide responses during emergencies. However, the pandemic has underscored significant gaps in its implementation, particularly with respect to infrastructure, digital access, and teacher readiness. The following discussion will explore how the provisions of the RTE Act can be leveraged to address these challenges in such unprecedented times.

Features of the RTE ACT, 2009¹²

- It ensures free and compulsory education to all children within the age group of 6 to 14.
- No school fees, capitation fees, charges or expenses are to be paid by a child to get

¹⁰ UNICEF. (2020). The Impact of COVID-19 on Children's Mental Health. Available at: <https://www.unicef.org/india/impact-covid-19-childrens-mental-health#:~:text=The%20mental%20health%20of%20millions,during%20the%20COVID%2D19%20pandemic.>

¹¹ Central Square Foundation. (2020). Teacher Preparedness and Online Learning in India. Available at: https://centralsquarefoundation.org/HighlightsReport_SystemicDriversofFLN.pdf.

¹² The Right of Children to Free and Compulsory Education Act, 2009 (Act No. 35 of 2009).

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elementary education.

- The appropriate government which means central or state government and its affiliates (local authority) has to provide a school within 1 km walking distance for children in classes I to V and within 3 Kms for those in classes VI to VII. These schools are termed as 'neighbourhood schools'.
- The Child or his parents are not to be subjected to any screening procedure for admission to school.
- Special training provision for a child of above six years not been admitted to any school or, unable to continue studies, to bring him par with his class and to be admitted in an age appropriate class. In such cases, the child can continue beyond 14 years to complete his/her elementary education.
- 25 percent of the seats in private schools are reserved for RTE Students which are funded by the government. The Centre and the State share the joint responsibility to provide funds for RTE execution.
- Central Government has the responsibility to prepare National Academic Curriculum, teacher training manuals, capacity building and technical support to the states for the promotion of the RTE.
- The State Government has to ensure the development of course of study, admission of children, teaching staff, infrastructure development of schools, completion of education of children up to the age of 14 and inclusion of children from marginalized and disadvantaged section of the society.
- It is the duty of every parent to admit their children or ward to school and to ensure that they receive elementary education.
- Teachers in the schools have to ensure their regular attendance, completion of curriculum within the specific time, assessing the ability of the child and prescribe special attention if need be, conduct the parent-teacher meeting to appraise overall development of the child.
- There should be one teacher for every 30 students for the class I to V and one teacher for every thirty-five students for class VI to VIII.
- It also provides for prohibition of deployment of teachers for non-educational work, other than decennial census, elections to local authority, state legislatures and parliament, and disaster relief.
- It focuses on making the child free of fear, trauma and anxiety through a system of child friendly and child focused learning.

It is important to mention here that RTE Act has successfully managed to increase enrolment rate in the upper primary level (Class 6-8). More than 3.3 million students secured admission under 25 % quota norm under RTE. Stricter infrastructure norms have also resulted in improved school infrastructure, especially in rural areas. Moreover, removal of 'no detention policy' by way of amendment in the Act in 2019 has brought accountability in the elementary education system.

Despite such salutary provisions, it is equally important to explore how the Act's provisions can be utilized in extraordinary situations, such as the pandemic, to ensure that education continues despite the challenges posed by such unprecedented disruptions.

a. RTE Act's Provision for Access to Education during Crisis Situations:

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Under the RTE Act, education is mandated to be free and compulsory for children aged 6 to 14 years. The Act aims not only to provide access but also to ensure quality education through standards that include trained teachers, adequate infrastructure, and well-defined pupil-teacher ratios (PTRs). However, in the context of a global health crisis like the COVID-19 pandemic, these provisions must be viewed in a flexible and adaptive manner. In such a situation, alternative modes of education, such as online learning or community radio programs, need to be integrated into the framework of the RTE.

In the context of pandemic:

Online Education: The pandemic forced schools to close, and online education became the most viable alternative. While digital education is not explicitly mentioned in the RTE Act, its implementation during the pandemic can still be seen as an extension of the Act's right to access education. The challenge, however, remains in overcoming the digital divide, which affects students in rural or marginalized communities. The Ministry of Education and various state governments, along with organizations like NGOs, took efforts to ensure students without internet access or digital devices were not left behind.

For instance, some states provided TV-based education, or radio programs were aired to reach children in remote areas who didn't have access to smartphones or laptops.¹³

Community-based learning: Additionally, the pandemic highlighted the need for community-based learning models, where teachers can reach out to children in local areas through community learning centers or peer-based learning initiatives. These models have the potential to be integrated into the overall framework of the RTE, ensuring that education is accessible even when traditional schooling is disrupted.¹⁴

b. Flexibility in Implementation of RTE's Norms during Emergencies:

In light of the pandemic, there needs to be flexibility in the enforcement of the RTE's infrastructure requirements, such as teacher-student ratios and physical facilities. The government recognized that the unprecedented nature of the crisis required temporary adjustments in how education could be delivered. This flexibility should also extend to academic assessments and examinations, as it became clear that the usual methods of assessment could not be applied uniformly.

In the context of pandemic:

Temporary Suspension of Certain Norms: Given the restrictions imposed by the pandemic, the government issued guidelines and made provisions for online exams or open-book assessments, which adhered to the learning outcomes but allowed for non traditional assessment methods. This ensured continuity in the academic calendar while acknowledging the challenges students and

¹³ Government of India, Ministry of Education. (2020). Guidelines for Online Education and Alternatives to Traditional Learning.

¹⁴ Supra note 7.

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teachers faced.¹⁵

Innovation in Teacher Training: Another provision of the RTE Act is the need for qualified and trained teachers. During the pandemic, governments and private entities collaborated to offer online training to teachers, so they could better engage with students virtually. The emphasis was not just on learning digital tools but also on innovative teaching strategies that cater to online platforms.¹⁶

c. Provision of Resources under the RTE Act during Emergencies:

Section 6 of the RTE Act provides for the preparation of children to be educated, with a particular focus on children with disabilities or those from disadvantaged backgrounds. In times of crisis, such as the pandemic, this provision can be extended to address the resource gap in online education. For example, governments could ensure the distribution of learning materials in different formats—digital or physical—so that children from low-income families or rural areas can continue their studies without significant setbacks.

In the context of pandemic:

Distribution of Learning Materials: During the lockdowns, many state governments, with support from NGOs, took measures to distribute textbooks, learning kits, or radio-based lessons to children in remote areas. The goal was to maintain the continuity of education even when physical schools were not functioning.¹⁷

Support for Vulnerable Students: The pandemic has shown how vulnerable children—especially those from marginalized communities, children with disabilities, or those facing domestic challenges—are disproportionately impacted. The government must ensure that special education resources, as stipulated under the RTE, are equally accessible in these times. Provisions for mental health support should also be integrated into the Act's mandate, acknowledging the psychological toll the pandemic has had on students.

d. Inclusivity and Equity under the RTE Act:

The RTE Act's core principles are inclusivity and equity. It is important to remember that the pandemic highlighted the disproportionate impact on children from economically disadvantaged families. The government's response should be to create equitable opportunities for all students to continue their education, regardless of their socio-economic background.

In the context of pandemic:

Targeted Interventions: The government, together with local bodies and NGOs, must target interventions where they are most needed—such as in remote areas with no access to online resources or among vulnerable populations like the children of migrant workers. Several state governments, for example, launched initiatives like "phone-based education" or SMS-based learning to support students with limited or no internet connectivity.

¹⁵ Supra note 13.

¹⁶ Supra note 11.

¹⁷ Supra note 10.

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Support for Marginalized Communities: More resources should be allocated to programs that provide access to education for marginalized communities, including tribal and disabled children. The pandemic has underscored the need for more robust systems that ensure these groups are not left behind.¹⁸

Conclusion and Prescription for Change:

The COVID-19 pandemic has highlighted significant weaknesses in India's education system, particularly the digital divide, educational inequalities, and the lack of preparedness for disruptions. Despite these challenges, it also presented an opportunity for innovation, revealing the need for flexible and adaptive approaches to ensure continued access to education. The Right to Education (RTE) Act remains vital in guaranteeing education, but its provisions must evolve to address the realities of a crisis like a pandemic.

Prescriptions for Change:

- i. *Bridging the Digital Divide:* Invest in providing digital devices and internet access to children, particularly in rural and marginalized communities, and expand offline education options like radio or TV-based learning.
- ii. *Flexibility in RTE Implementation:* Temporarily relax infrastructure requirements and adapt assessment methods to ensure continuity in education. Implement community based learning models to supplement traditional schooling.
- iii. *Teacher Training:* Prioritize digital literacy and online teaching skills for teachers, especially in rural areas, to ensure effective engagement in virtual classrooms.
- iv. *Resource Allocation for Vulnerable Children:* Ensure that special education, mental health services, and support for marginalized groups are prioritized to address their unique challenges during crises.
- v. *Focus on Mental Health:* Integrate mental health support into schools and provide counseling services to address the emotional toll on children during disruptions.
- vi. *Long-term Structural Reforms:* Increase investment in primary education and improve teacher quality, school infrastructure, and learning resources across the country.
- vii. *Community Engagement and Awareness:* Launch awareness campaigns to promote the importance of education and engage communities to support children's return to school.

To sum up, it can be said without doubt that the pandemic underscores the urgent need for a more inclusive, equitable and resilient education system in India. By adopting innovative solutions and making flexible adjustments, the education system can better guarantee the Right to Education for every child, regardless of crisis or circumstance.

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¹⁸ Supra note 8.

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Conflict of Interest

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