Covid-19 Pandemic and Protection of Right to education of Girl Child in India; A Legal Analysis

Yogendra Nath Tripathi*
&
Dr. Rashida Ather**

*Research Scholar, Department of Human Rights, Babasaheb Bhimrao Ambedkar University, Lucknow
**Assistant Professor, Department of Human Rights, Babasaheb Bhimrao Ambedkar University, Lucknow

Abstract
Like other individuals, girl child is entitled to enjoy the same human rights and fundamental freedoms. Particularly for girls from low-income families and girls living in rural regions, the epidemic has posed a hurdle to their education. Lack of digital access has stopped girl child from learning at home during quarantine. Most of the girl child don't have mobile phones or any form of digital access. If there is one smartphone in family, it won't be for the girl child. Most of the time it would typically for the father or the brother. Threats to girls have increased rates of teen or early pregnancy, gender-based violence, and child marriage. The economic impact of the epidemic on families led to many girls being married off in return for money. The pandemic has threatened decades of progress on gender equality. Girl child is on the front line of the pandemic threat in third wave of covid 19. The Malala Fund estimates that 20 million children in developing countries may never return to the classroom after pandemic-related school shutdowns. International human rights treaties prohibit discrimination on the basis of gender and also require States to ensure the protection and realization of educational rights of girl child Universal Declaration of Human Rights, 1948, Convention on the Political Rights of Women, 1953, The 1979, Convention on the Elimination of All Forms of Discrimination Against Women, and many more international human rights instruments specifically address girl child’s right to education. In India there is Indian Constitution and certain other specific legislation which specifically guarantees the right to education to girl. In spite of all these international convention, national laws and policies, during the present covid 19, status of education of girl child is deteriorating day by day. That’s why the present laws need to be revised so that it can secure the right to education of girl child more efficiently. The present paper is an attempt to analyze the educational status of girl child in India during covid 19 with an analytical perspective.

Keywords: covid 19, Child Rights, Gender based inequalities, Gender based violence, etc.
child marriages, amniocentesis, female feticide, child trafficking, child sexual exploitation and abuse, infant and maternal mortality rates, and dowry demands and deaths are all evils linked in some way or the other to the low status of the girl child in India. There appears to be an utter powerlessness of the girl child against the ideological onslaught of patriarchal forces perpetuated through customs and traditions, proverbs and myths, and folklore and folk songs. In a culture that idolizes sons and dreads the birth of a daughter, the girl child suffers special disadvantages. Today the rejection of the unwanted girl can begin even before her birth, prenatal sex determination tests followed by quick abortions eliminate thousands of female foetuses. This has led to the growing disparity between male and female infant mortality rates. As per the 2011 Census, the child sex ratio (0—6 years) has shown a decline from 927 females per thousand males in 2001 to 919 females per thousand males in 2011. A girl is likely to be breastfed less often and for shorter periods than a boy is. A number of studies indicate that in children under the age of 5, girls suffer from malnutrition more often than boys do. Not only are more girls malnourished, the degree of their malnutrition is also greater. The root cause is not so much as the lack of food but the lack of Value attached to the girl child. The temporary nature of the girl's membership in her family, coupled with her low economic worth, ensures a minimum investment in her development. The girl child's labour is as continuous as it is unrecognized, unpaid, and unrewarded. She is denied education and training and this denies her many basic skills or information that would equip her to earn a living or fight for her rights both within the home and outside it. At least 1.6 million girls in India remain out of school. Report by NCPCR, 2018 suggests that 39.4% girls between 15-18 years of age are out of school and 57% girls dropout upon reaching the 11th grade. Distance to school act as significant roadblock. For every hundred elementary schools (classes I to VIII) in rural India, there were only fourteen offering secondary (classes IX-X) and only six offering higher secondary grades (classes XI-XII). In India more girls (3.2%) are out of school than boys (2.7). Even today in the cohort of children below 15 years of age, Girls more affected due to COVID-19. It is estimated that nearly 10 million secondary school girls in India could drop out of school due to the pandemic, putting them at risk of early marriage, early pregnancy, poverty, trafficking and violence. Girls face infrastructural barriers. Only 54% schools have functional wash facilities (Toilet, Drinking Water and Handwashing facilities). There are 16.6 % secondary schools in the country without female teachers. Proportion of female teachers to total teachers is at 42.9%. The girl child's status should be enhanced by empowering her through education and providing her with skills to make herself reliant and economically independent.

4 Available at: http://udise.in/Downloads/Publications/Documents/Flash_Statistics_on_School_Education-2016 -17.pdf (accessed on 17/10/2021, at 6pm).
5 Available at: http://mospi.nic.in/sites/default/files/publication_reports/KI_Education_75th_Final.pdf, (accessed on 15/1/ 2021, at 9pm).
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1. Introduction
2. Significance of Girls’ Education

Like other individuals, girl child is entitled to enjoy the same human rights and fundamental freedoms. The right to development includes access to information, education, play and leisure, cultural activities and the right to freedom of thought, conscience and religion. Development and provisional rights under the United Nations Convention on the Rights of the Child (UNCRC) guarantee children the right to an appropriate quality of life, medical care, social security, and education. A child’s right to development includes right to education, right to learning, right to relax and play, right to all forms of development—emotional, mental, and physical. Right to education of every child is clearly a human right. Education is important as it enables the child to:

- develop and realize her/his full potential as a human being;
- develop the ability to think, question, and judge independently;
- develop a sense of self-respect, dignity, and self-confidence;
- develop and internalize a sense of moral values and critical judgment;
- learn to love and respect fellow human beings and nature;
- develop civic sense, citizenship, and values of participatory democracy; and
- enable decision making.⁹

3. National and International Perspective

The right to basic education has been a key element of almost every international Declaration on human rights since the UN was established. The UN Declaration of Human Rights, 1948, the 1959 Declaration of the Rights of the Child, the 1966 International Covenant on Economic, Social, and Cultural Rights, the 1989 UNCRC, the 1990 World Declaration on Education for All, the 1990 World Declaration on the Survival, Protection, and Development of Children, the 1995 Beijing Declaration, and the 1996 Amman Affirmation, all express a commitment to education as a right.¹⁰

The Constitution, in Article 45, made compulsory education a matter of national policy. The Constitution, in Article 45, lays down as a directive principle that every child up to the age of 14 shall receive free and compulsory education. Articles 39f, 46, and 47 lend further support to this constitutional directive. Article 28 of the Constitution is also relevant to education of children. It provides freedom as to attendance at religious instruction or religious workshop in certain educational institutes. Article 29 of the Constitution provides the right to admission to educational institutes (receiving state aid) without discrimination on the basis of religion, race, caste, and language. There were two landmark pronouncements of court judgement in Mohini Jain vs Union of India¹² and later in J. P. Unnikrishnan vs State of Andhra Pradesh¹³ that had held right to free and compulsory education a matter of right to life for all children of the country as per interpretation of Art. 21

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¹² (1992) 3 SCC 666.
¹³ 1993 SCC (1) 645.
of Indian Constitution. Thereafter India ratified the UNCRC and as a part of Art. 51(c)\(^{14}\) of the Constitution, it was obliged to foster respect for international laws and treaties. Art. 21 of the Constitution, which mandates free and compulsory education for all children between the ages of 6 and 14, was added by the 93rd Constitutional Amendment. For the children of India, the significant enactment of the RTE Act, 2009, was a momentous occasion. The RTE Act, 2009 received the Presidential assent on 26 August 2009. In India’s history, for the first-time children have been conferred right to quality elementary education by the state.

4. The salient features of the RTE Act, 2009

1. Every child in India between the ages of 6 and 14 is entitled to free and compulsory education.\(^{15}\)

2. Until primary school is finished, no child shall be held back, expelled, or forced to take a board test.\(^{16}\)

3. If a child above the age of six has never attended school or, if accepted, was unable to finish their primary education, they must be admitted to a class that is suitable for their age and have a right to receive special training\(^{17}\).

4. The age of a child, for the purposes of admission to elementary education, shall be determined on the basis of the birth certificate. No child shall be deprived of admission in a school for want of birth certificate\(^{18}\).

5. A certificate shall be awarded to a child who completes elementary education.\(^{19}\)

6. Calls for a fixed student-teacher ratio in primary schools 1:30 and in upper primary schools 1:35\(^{20}\).

7. Act stipulates that all private unaided schools in the nation must grant economically disadvantaged children 25% admissions reservation in class one\(^{21}\).

8. Within five years, school’s teachers must possess a sufficient professional degree to avoid losing their jobs\(^{22}\).

9. The school’s infrastructure (where there are issues) must be addressed within three years or recognition will be revoked\(^{23}\).

10. State and central governments will bear the financial burden\(^{24}\).

5. Development of education in India

- 1986; National Policy on Education (NPE), 1986 was adopted.
- 1987; Several large centrally-assisted schemes/programmes such as ‘Operation Blackboard’ and the ‘scheme for restructuring and reorganization of teacher education was launched.
- 1988; NLM was launched.
- 1992; NPE, 1986 was revised.
- 1994; District Primary Education Programme (DPEP) launched to universalize primary education in selected districts.

\(^{14}\) Constitution of India, 1950, Art. 51(1)(c).
\(^{15}\) The Right to Education Act, 2009, Section 3(1).
\(^{16}\) Id. Sec.16.
\(^{17}\) Id. Sec.4.
\(^{18}\) Id. Sec.14.
\(^{19}\) Id. Sec. 30(2).
\(^{20}\) Id. Sec.25.
\(^{21}\) Id. Sec. 12(1)(c).
\(^{22}\) Id. Sec. 8 and sec. 9.
\(^{23}\) Id. Sec.23.
\(^{24}\) Id. Sec.19.
1995; Centrally-assisted National Programme of Nutritional Support to Primary Education, popularly known as the Mid-Day Meal Scheme (MDMS) was launched (MDMS).

1999; A separate Department of School Education and Literacy created within the Ministry of Human Resource Development, Gol.

2001; (i) Sarva Shiksha Abhiyan (SSA), the flagship programme for universalisation of elementary education, launched; (ii) Adoption of the National Policy on Empowerment of Women.

2002; The Constitution (Eighty-Sixth Amendment) Act of 2002 introduced Article 21-A, which establishes free and compulsory education as a Fundamental Right for all children between the ages of six and fourteen.

2003; National Youth Policy (NYP), 2003 formulated.

2004; EDUSAT (Educational Satellite), a satellite exclusively dedicated to education was launched to harness modern technology for delivery of education of good quality to all, including hard-to-reach groups.

2005; National Curriculum Framework (NCF-2005) for school education was formulated.

2007; Eleventh Five-Year Plan (2007-12) was launched.

2009; In 2009, the Right to Free and Compulsory Education Act (RTE) was passed.

2010; The RTE Act 2009 came into force from 1 April 2010.

2011. The revised Centrally-Sponsored Scheme Vocationalisation of Higher Secondary Education' approved.

2012; The Twelfth Five-Year Plan (2007-12) was launched.

2013; (i) National Early Childhood Care and Education (ECCE) Policy adopted; (ii) The Integrated Child Development Services, the flagship programme of the Gol for ECCE restructured and strengthened.

2014; National Youth Policy, 2014 was adopted.

2020; National Education Policy (NEP) 2020 was drafted.


At the end of March 2020, India went into lockdown as the majority of schools were finishing the 2019–2020 school year. By May, it was obvious that classes in schools could not resume for the upcoming academic year due to the nationwide increase of COVID-19 cases. The Alternative Academic Calendar for Students (AAC) guidelines for continuing formal school education online were released in April 2020 by the Ministry of Human Resource Development. Emergencies occurring due to natural disasters, pandemics or civil strife affect both boys and girls, however it affects girls disproportionately. There is now a growing concern that COVID-19 might increase the gender gap in education. Girls are more likely than males to experience discrimination in terms of having access to technology, doing home tasks, and getting married as children. The income of people has consistently gone down during the pandemic and when the family income goes down, girls are the first ones to be pulled out of school. India’s GDP dropped by 24.4%. The incomes of salaried workers fell 35% while the incomes of daily laborers fell 75% through December 2020. Unstable financial situation throughout the COVID-19 crisis has caused many families to pull their daughters out of school, either to work or because they could no longer afford it. Many families choose to prioritize their sons’ education due to harmful gender norms.


Lack of digital access has stopped girls from learning at home during quarantine. Before COVID-19, in India, 30 million children are out-of-school, 40% of them were adolescent girls. It is expected that post COVID-19, there may be up to 10 million secondary school girls' dropouts, and a significant portion of them may be from India^{27}.

There are several impacts of covid-19 on girls' education. One of the most direct impacts is the shutting down of schools to curb the spread of the virus. Since then, a variety of online platforms, TV shows, radio broadcasts, and other types of distance learning materials have been implemented to aid students in their studies after school^{28}. However, due to the massive digital disparity, it has failed to reach all students. In India girls who are poor and living in rural areas have much less access to technology than boys. There is a 50% gender gap in mobile internet users in India where 42% of men and 21% of women use mobile internet. Moreover, a survey on issues faced by children during covid 19 states that girls than boys had less access to digital infrastructures such as mobile phones, internet services, radio, and media.^{29} This has been found to be deepening inequalities in education during COVID-19 crisis. With such limited access to technology, digital education would further alienate girls from the classroom and expand existing educational disparities. Although if girls have access to technology at home, they are more likely to be disproportionately burdened with domestic tasks such as cooking, cleaning, sibling care, collecting water, at the time when schools, anganwadi, and child care centers are closed. Household duties prevent girls from attending school and reduce their educational possibilities. One of the most often mentioned reasons given by women for leaving school is household responsibilities. 30.2% of women (3-35 years old) who had previously attended school but are no longer doing so, stated family responsibilities as the cause for discounting education^{30}.

Girls' education was impacted, in addition to school closures, by the widespread loss of livelihoods brought on by COVID-19. Since girls' education has a larger opportunity and financial cost than boys' education, especially for low-income families, many students may leave the educational system. Therefore, it is possible that when families experience financial challenges, they may revaluate the above expenditures connected with their daughters' education^{31}. Since secondary school is not free, unlike elementary education, this creates a major problem for adolescent girls. Furthermore, the distribution of education expenditure within households, already has a pro-male bias. This may occur as a result of fewer females enrolling in school or lesser spending on her education^{32}.

As a result of both, the lack of access to schools and economic hardships due to covid 19, girls are at a higher risk of gender-based violence and forced child marriage. Girls who marry young lose their youth and are removed from the educational system. Families that are struggling financially see it as a chance to be relieved.

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^{32} available at: https://www.globalpartnership.org/blog/effects-covid-pandemic-girls-education/(accessed on 23/11/2021, at 5pm)
of the responsibility of raising a girl child. Moreover, in times of crisis, families frequently consider the marriage of their daughters as a way to assure the security and future well-being of the female child. With 23 million child brides, India already has the highest percentage in the world, and the epidemic is expected to increase that number. In June and July of this year, compared to 2019, ChildLine India has seen a 17% rise in distress calls about the early marriage of girls.

7. Statistical Data

After China, India has the second-largest educational system in the world. In the first response to COVID-19, closing schools to preserve social distance was the most sensible way to prevent community transmission. Although, to learn from home, a lot of digital content has been generated and transmitted to help children, but there is limited evidence on the extent to which this content is actually reached to children. According to a report by Oxfam India, students in government schools were particularly heavily impacted since during the lockdown, more than 80% of students in government schools in Odisha, Bihar, Jharkhand, Chhattisgarh, and Uttar Pradesh did not get any educational content. This was mostly a result of families’ lack of access to digital gadgets and e-learning resources. In homes with digital access, WhatsApp was the primary mode (75 per cent) for imparting education in both public and private schools, followed by phone calls between teachers and students (38 per cent). However, more than 75% of parents reported difficulty using WhatsApp classes due to a lack of an internet connection, bad internet speed/signal, or both or inability to pay for it. According to a UNICEF survey performed in six states, the majority of respondents believe that children are not progressing as quickly as they should be, especially in terms of social skills, physical fitness, employment prospects, etc. At comparison to what it would be in school, 67% of parents of children aged 5 to 13 and 71% of those aged 14 to 18 report that overall progress is substantially or slightly behind.

8. Conclusion

Globally, the COVID-19 epidemic has had an impact on educational systems, forcing almost complete shutdown of schools, colleges, and institutions. Children everywhere are impacted by the disturbances it causes, but impoverished children, particularly girls, are more severely affected. For them, formal schooling and early learning are being disrupted by the COVID-19 situation. They have fewer opportunities in their social life due to their lower level of education. At every stage of their life, the girls deal with tremendous stress and growing inequality. According to the report, about 75% of girls are not keeping up with their academics. Online learning is not equally accessible to the girls. In low- and middle-income nations, boys are 1.5 times more likely to own a phone than girls. In addition to these difficulties, the government has not adopted any effective measures to assist the weak and their families. The educational division of the relevant authorities has not taken any steps to support the children’s at-home education. Since the girls lack a way to continue their education from home, this has significantly impacted their schooling. The majority of households lack cell phones. They only have phones with keypads. Those who own cell phones must share them with the entire family. Due to the financial situation and the fact that they now have no income source, even if the girl child took online lessons, they would not be able to pay the charge of additional data pack. It is either impossible for those taking online classes to grasp what is being taught to them since there isn't any good reading material available online.
Despite the numerous difficulties it has brought about, several possibilities have also arisen. To address the current COVID-19 dilemma, the Indian government and several educational stakeholders have looked into the idea of open and distance learning through the use of various digital technologies. India should come up with innovative plans to guarantee that all children would have ongoing access to education during the COVID19 epidemic. Online study should continue after the lockdown since it is extremely beneficial to the students.

9. Steps to Be Taken to Mitigate the Impact of Covid-19 on Girls' Education

- Girls should be encouraged to continue studying even when schools are closed by giving them free access to technology like cell phones, computers, and data packs.
- Ensure that girls have access to free educational resources, such as the distribution of printed materials and textbooks, so they can study whenever it is most convenient for them.
- By offering scholarships, rewards, cash transfers, and waivers of exam fees, the price of education for girls should be lowered in order to lessen the financial burden on parents.
- The Right to Education Act of 2009 should be expanded to cover secondary education in order to provide education for adolescent girls free of charge.
- Plans to reopen schools must take gender equality into consideration.
- Gender-disaggregated data should be gathered to track re-enrolment and attendance trends.
- Female instructors should be employed, and schools should have adequate toilet facilities, including restrooms with gender-specific amenities.
- In a similar vein, funding for education should continue to flow into the sector while taking gender equality into account.
- As per the National Education Policy (NEP) 2020, public spending on education should be raised from the current 4.4% of GDP to 6% of GDP.
- Lastly, it is important to provide the proper training for parents, schools, and the community in order to prepare them to respond to situations of child marriage and the rising incidence of gender-based violence.

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