

Right to Internet Access for the Development of Online Education in Sri Lanka during Covid-19: A Comparative Analysis of Finland, France and India

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Abstract - At present it is evident that Covid-19 has created a significant negative impact on the education of children. This problem has caused a huge impact on undergraduates and Advanced Level students in rural areas. Therefore, this research identified whether there are sufficient laws to protect the right to online education of children in Sri Lanka during the COVID-19 pandemic. The research problem is whether the prevailing laws in Sri Lanka are sufficient to safeguard the right to online education of children during COVID-19 by ensuring the right to internet access. The objectives of this research are to identify the impact of COVID-19 on the education of children and whether the Sri Lankan legal framework is sufficient to address such issues, and to propose necessary amendments to the existing legal regime to fill the gaps. The methodology of this research is a blend of qualitative and quantitative methods. Further, the study is a combination of black letter methodology and comparative research methodology. Moreover, this research employed a qualitative analysis of primary data as well as secondary data where primary data was gathered using a questionnaire distributed among the undergraduates of University of Sri Jayewardenepura and Eastern University. Finally, the research concludes with a view that the existing domestic laws are insufficient to address the issues in online education of children during COVID-19 pandemic in order to achieve equal access to internet.

Keywords— *COVID-19, internet access, education*

I. INTRODUCTION

The education in the country was severely affected due to the Covid-19 pandemic. The biggest victims of this pandemic are the university students and the students who are doing Advanced Level and the Ordinary Level Examinations. Due to this emergency

situation, all the universities, schools and other educational institutions were closed and continued the teaching process through online platforms such as Zoom, Microsoft Teams and LMS. There are both pros and cons to this method. Advantages of this method would be time saving, less tiredness and ability to participate in educational programs within Sri Lanka and also worldwide. But, this method can be a disadvantage to poor people in rural areas, where this method can be expensive since they have to buy smart devices and data cards to attend the classes or lectures. Not only that, but also there are instances where education is disrupted due to signal failures in rural areas.

With the end of the conflict in May 2009, the Sri Lankan Government has set out mega infrastructure development projects such as road constructions, airports and harbors with a view of expanding economic development in the country. Moreover, in accordance with the political decision statement, the 'Mahinda Chinthanaya', the President pronounced the year 2009 as the Year of English and IT to empower the making of an information society in Sri Lanka. As a result, the Government presented the e-Sri Lanka initiative along with the Information and Communication Technology Agency (ICTA) of Sri Lanka to strengthen the economy of Sri Lanka, to reduce poverty and to improve personal satisfaction of people. These initiatives were introduced by the government under different sectors.

The 'Nenasala' which is also known as the Knowledge Center would be illustrative of this which was a project carried out by the Government along with the ICTA to establish Rural Knowledge Centers, e-Libraries, Distance and e-Learning Centers. Additionally, The Ministry of Education along with the "Asian Development Bank" implemented the 'Secondary Education Modernization Project' (SEMP) pointing towards interfacing a larger portion of the secondary education schools and other related

associations on a Wide Area Network. Thus, this implies that the right to internet access to education has been given prominence after the post war era.

However, the research question is whether due consideration has been given by the Sri Lankan government to allow equal access to internet for children in line with their right to online education during Covid-19 because the closure of universities and schools due to Covid-19 has led to continue education through distance learning by way of online methods through the internet such as by Zoom and Microsoft Teams etc which highly affected the students in rural areas due to their poverty and unavailability of internet coverage.

II. METHODOLOGY AND EXPERIMENTAL DESIGN

The methodology of this research is a blend of qualitative and quantitative methods which is a mix method. Also it has a combination of Black-Letter (Doctrinal) Methodology and Comparative Research Methodology with Finland, France and India. The Black-Letter Methodology is used to provide a descriptive and a comparative legal analysis on the area to highlight the differences in the respective legal regimes. Under the Comparative Research Methodology, a comparative analysis between Finland, France and India will be conducted in order to identify the differences between the said jurisdictions in the area of right to internet access on online education during Covid-19. Further, the research would employ a qualitative analysis of primary data including the 1978 Constitution of Sri Lanka, The Right of Children to Free and Compulsory Education (RTE) Act 2009 of India and judicial decisions and secondary data including journal articles and web articles. And also this study employs a quantitative analysis using a questionnaire. For the study, a questionnaire was distributed among three hundred and eighty (380) Advanced level students, undergraduates and postgraduate students of University of Sri Jayewardenepura and Eastern University of Sri Lanka who are in rural areas with a difficult background, and the purpose was to find out how much this online system has affected their online education.

III. RESULTS AND DISCUSSION

A. Data Analysis

The objectives of this research are to identify the impact of Covid-19 to online education of children, identify whether the Sri Lankan legal framework is sufficient to address such issues and to propose

necessary amendments to the existing legal regime to fill the gaps. The information was gathered using a questionnaire to identify how the pandemic has affected the online education of students.

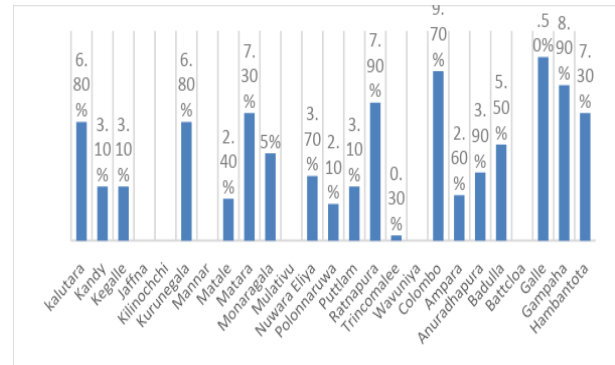


Fig.1 - District

The respondents who contributed to this research are from different districts where most of them are from rural areas.

Most of the respondents have mentioned that they continued the education using zoom and LMS.

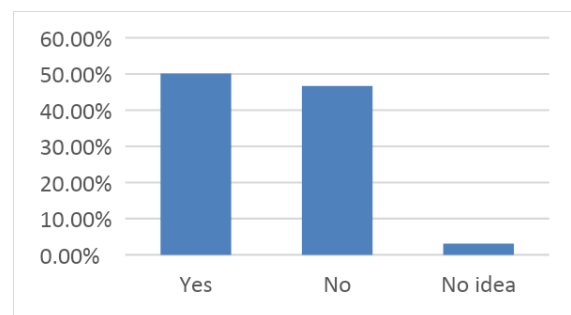


Fig.2 – Sufficiency of the Internet Speed for Educational Purposes

Since most of the respondents are from rural districts such as Anuradhapura, Polonnaruwa, Nuwaraeliya etc. they are facing internet difficulties due to lack of signal. Fifty percent (50%) of the respondents mentioned that online education was affected by the less speed of the internet.

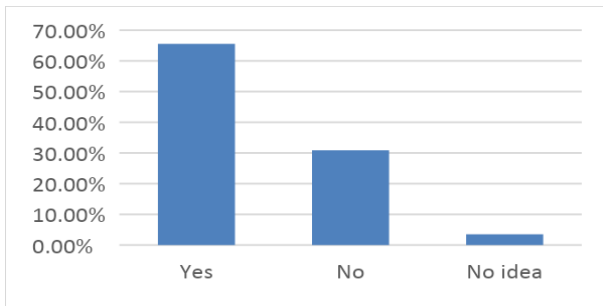


Fig.3 – Whether Education was affected due to internet signal issues, audio issues and reconnection issues

It is evident that online education can also be affected by signal issues, audio issues and reconnection issues. Sixty-five percent (65%) respondents have faced this issue.

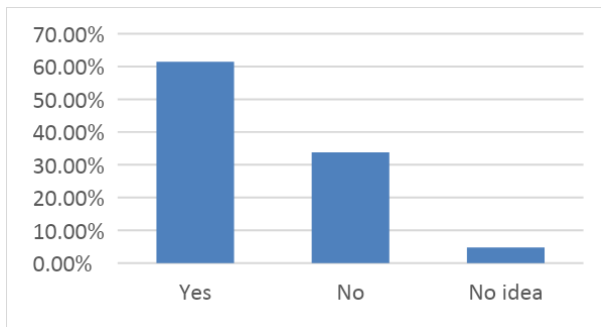


Fig.4 – Whether financial difficulties arose when attending lectures through online platforms

To attend lectures through online platforms cost a lot. For this, students have to buy proper smart devices to attend the lectures and they have to buy data cards for that. So this would be a burden and extra stress for students who have financial difficulties. Most of the respondents (64.4%) mentioned that they have faced these financial difficulties when attending lectures through online platforms. This has restricted their right to online education.

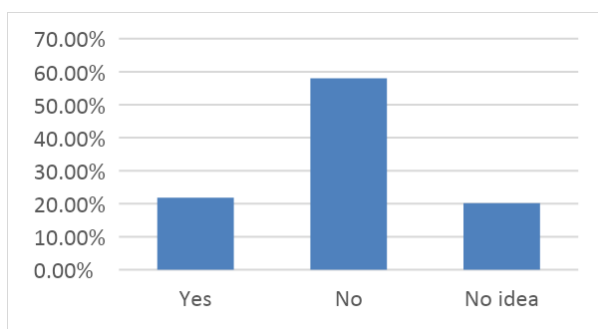


Fig.5 – Whether Government intervention for online Education during Covid-19 is adequate

Since online education is inevitable due to the pandemic, the government should introduce proper remedies for the aforesaid difficulties while implementing a proper mechanism to regulate it. Fifty eight percent (58%) of the respondents mentioned that government intervention is inadequate in this regard.

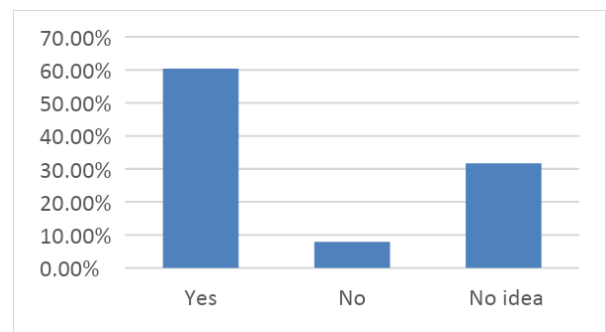


Fig.6 – Whether the Government should recognize Right to Internet Access as a Fundamental Right in the Constitution

Countries such as France, India and Finland have recognized the right to internet as a Fundamental Right. This implies that right to online education should be ensured equally. However, in the contemporary world, the rights should be changed and updated. Recently, most of the people in the world use the internet for their work. Specifically, with the pandemic it has become a basic need because of the concepts such as work from home and distance learning. So, sixty point four (60.4%) respondents have mentioned that, government should recognize right to online education as a Fundamental Right. In other words, right to internet access should be safeguarded as a Fundamental Right.

B. Right to Internet Access on Education in Finland during Covid-19

Finland has become the very first country in the world to make the internet a “legal right” for every resident (Wood,2017). Finland has promised to connect everybody to a 100 Mbps connection by 2015. On the other hand, the UK administration has guaranteed a minimum connection of at least 2 Mbps to all homes by 2012 yet has not recognized this as a privilege in law. The Finnish arrangement implies that from 1st July all broadcast communications

organizations will be obliged to furnish all residents with broadband lines that can run at least 1 Mbps speed (BBC,2010) . Finland is one of the countries in the world where around 95% of the population has a type of internet access. Furthermore, the law has intended to carry the internet to rural areas, where the geographic difficulties have restricted its admittance up to this point.(Ahmed,2009). This is a view shared by the United Nations, which is making a major push to consider internet access a common freedom.

Because of the school closures due to Covid-19, alternative strategies such as digital learning environment, distance learning, necessary arrangements and independent learning have been introduced in Finland. Moreover, the required evaluations and testings have also been initiated. Finland has utilized online platforms to cater the right to education of children. In other words, Finland has utilized the internet as a means of securing the right to education of children. Hence, it is evident that Finland has ensured right to internet access on education during Covid-19 by guaranteeing the right to internet access.

Additionally, it is important to note that there are several benefits of these online platforms. For instance, they can be used for publishing evaluations, assignments, test marks of students and subject notes. Helmi, Wilma (Primus), Studentaplust and Sopimuspro are the basic platforms which have been utilized for both primary and secondary education in Finland during Covid-19(The world bank 2020). Despite the fact that the nonappearance of in-person lessons can be fairly compensated by the use of online stages and other innovations, the admittance to vital computerized gadgets is not similarly conveyed over the population. Therefore, specifically, the students from socio-economically disadvantaged backgrounds who do not have the way to admittance to these electronic devices might be seriously affected by the COVID-19 pandemic which will ultimately lead to expanding the learning imbalances (OECD 2020). The conditions for establishing a sufficient atmosphere for home schooling depends on the likelihood of admittance to innovation while having a proper physical space for learning from home. According to a study, in Finland, 96% of students have a calm space to learn at home which is higher than the OECD normal (91%) and this rate was 93% for students originating from the base quartile of the financial conveyance, which is higher than the OECD normal (85%). (OECD 2020)

Therefore, when analyzing the legal regime of Finland, it is clear that it has taken considerable initiatives to protect right to education of children during Covid-19 by ensuring the right to internet access to everyone.

C. Right to Internet Access on Education in France during Covid-19

In June 2009, the Constitutional Council, France's highest court, announced access to the internet to be an essential basic liberty. In other words, the court has declared internet access as a 'Fundamental Human Right'. However, broadband is yet impossible in some rural places in France. In the event that a house is in a region not secured by a broadcast communications supplier, person will need to investigate satellite innovation on his or her phone and internet access. Furthermore, an online portal known as "My class at home" gives admittance to educational and learning opportunities upholding the judgment of the French court which decided that admittance to the internet is a fundamental human right. (Sparks 2009).

Consequently, when analyzing the French jurisdiction also it is evident that it has protected right to education of children to a considerable extent during Covid-19 by ensuring the right to internet access to everyone.

D. Right to Internet Access on Education in India during Covid-19

Access to internet had been declared as a Fundamental Right in India by the Indian Supreme Court which is evident from *Faheema Shirin v. State of Kerala* where the right to internet access was recognized as a Fundamental Right which forms part of both right to education under Article 21 of the Constitution and right to privacy. Article 21A of the Constitution provides for free and compulsory education for all children between six to fourteen years as a Fundamental Right. The Right of Children to Free and Compulsory Education (RTE) Act, 2009 (The Right of Children to Free and Compulsory Education Act. 2009). describes the importance of free and compulsory education for children between six to fourteen years in India under Article 21A of the Indian Constitution.

Furthermore, many free digital e-Learning platforms which assist students in continuing their learning during COVID-19 due to school closures was subjected to wide discussion in a [press release](#) by the Ministry of Human Resource Development (HRD) on

March 21, 2020 (The world Bank,2020). [The DIKSHA portal](#), [e-Pathshala](#), The National Repository of Open Educational Resources, [Swayam](#) and [Swayam Prabha](#) would be illustrative of these free digital e-Learning platforms.

Therefore, it is evident that the Indian Jurisdiction has sufficiently addressed right to internet access on education in India during Covid-19 through its legal framework and by taking many other initiatives to protect right to education of children during Covid-19 by ensuring the right to internet access.

E. Right to Internet Access on Education in Sri Lanka during Covid-19

The system of free public education was introduced to Sri Lanka by Dr. C.W.W. Kannangara (Father of free education) by making education free for all students for their own benefit including underprivileged students in rural areas of the country. Therefore, the students from economically marginalized families will be ensured the access to education. This is further guaranteed by Article 12(1) of the Constitution which states that 'All persons are equal before law and are entitled to equal protection of law'. Moreover, according to the Directive Principles of State Policy and Fundamental Duties under Article 27(5) of the Constitution state shall take effective steps in the fields of teaching, education and information to eliminate discrimination (The Constitution of the Democratic Socialist Republic of Sri Lanka, 1978.).

The outbreak of Covid-19 has led to create adverse impacts on education of children in Sri Lanka. This resulted in halting academic activities in schools, universities and higher educational institutions for some time. The Sri Lankan government has proposed online education as a solution to address this issue (The Constitution of the Democratic Socialist Republic of Sri Lanka 1978) However, it could be argued that there are many issues arising out of online teaching through various online Apps. Technical issues would be illustrative of this. The main disadvantage in online teaching is that it excludes students who lack economic strength to buy equipment which are essential to connect with online lectures. Moreover, some students are marginalized for being unable to bear the cost for data or Wi-Fi. They are further disadvantaged due to the decreasing economic capacity due to Covid-19 which directly resulted in affecting the livelihood of their parents as well as them adversely.

On this basis it is necessary to introduce new laws to the current domestic legal framework with a view of protecting online educational rights of students in unforeseeable situations such as Covid-19 and it should be recognized as a legal lacuna that should be filled promptly.

IV. OBSERVATIONS AND RECOMMENDATIONS

Therefore, when comparing the legal regimes of Finland, France and India, it is clear that there is a clear gap in the Sri Lankan legal regime with regard to right to online education in Sri Lanka during Covid-19. Accordingly, following recommendations were made in order to effectively address the prevailing gap in the existing legal regime of Sri Lanka while comparing the three jurisdictions.

- Right to online education should also be incorporated as an express right to be included in the 1978 Constitution under the Fundamental Rights Chapter. India has incorporated a separate Fundamental Right to Education under Article 21A of the Constitution. This would be appropriate to be included into the Sri Lankan legal framework because it provides for free and compulsory education for all children between six to fourteen years and it provides a high degree of protection while maintaining equality.
- Online teaching should be implemented with wider consultation to be made available to all the students without discrimination on any ground such as poverty because there are many households with school-age children who do not have access to online education since they do not have access to internet. In order to address this, the government should take necessary steps to eliminate the cost for both teachers and students by providing necessary equipment and uninterrupted connectivity for online teaching and high speed internet access.
- Enact legislation to ensure the safe use of the internet by children for online education. For this, The Right of Children to Free and Compulsory Education (RTE) Act, 2009 of India would be better to be considered and provisions for safe use of internet should be included.
- Practically, it is important to establish a self-regulatory body to develop 'codes of good

practices' to guide the internet industry on measures which are required to keep children safe when using online platforms for online educational purposes.

V. CONCLUSION

The study reveals that the existing laws are not sufficient to address the issues relating to right to internet access to online education in Sri Lanka during Covid-19.

Therefore, as a whole when analyzing the above facts it is clear that there are many unaddressed issues that have arisen due to the Covid-19 pandemic which should be addressed promptly to secure right to online education of all the students in the country irrespective of poverty and on the division of rural or urban. Hence, it would be effective to introduce new laws to effectively address this issue.

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AUTHOR BIOGRAPHIES



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