Screen to Safety: Need for Legal Regulation of E-Learning

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The post-COVID era has witnessed a shift in the educational landscape, with e-learning no longer a mere alternative but a powerful, transformative force at the heart of global learning. From physical classrooms to digital gadgets, from turning pages to scrolling screens, the pandemic has forced us to take a colossal step in the arena of education. It has dissolved the boundaries of traditional classrooms, offering students a world of knowledge at their fingertips, anytime and anywhere. However, the new platform comes with substantial risks that today's generation frequently succumbs to. The deterioration of health is the most significant one. The sudden growth of the eyewear industry and the mounting cases of depression are a few signs that reflect our deteriorating health. The evolution of e-learning has transformed today's kids into a mechanical generation lacking social skills and a lifestyle distant from nature. This rapid growth has also exposed gaps in legal frameworks, making it necessary to establish regulations in the field. The primary objective of my research paper is to analyse the negative impact of e-learning and gaps in the existing legal framework and to recommend a few measures to legally regulate the domain. The paper relies mainly on secondary sources of data. Newspaper reports, articles, statistical reports, case-based data, research reports, and law-related websites have been referred for data collection. The research leads to an inference that there is an urgent need for regulatory mechanisms to ensure wellness, standardisation, and accountability in the digital education space.

Keywords*: e-learning, health, data privacy, online, regulation.*

INTRODUCTION

E-learning refers to a system of learning that incorporates formal teaching methods with the aid of electronic resources. The use of computers and the Internet plays a central role in E-learning.[1] E-learning had its roots in the early days of the Internet, but it gained prominence in the 21st century, particularly with the advancement of technology and the increased availability of the Internet. During the COVID-19 pandemic, the reliance on e-learning surged as schools and universities were forced to adopt remote teaching methods. As per the reports of UNESCO, 1.37 billion students in 138 countries felt the impact of school closures, and 60.2 million educators found themselves outside traditional classrooms during the pandemic.[2] This revolutionised the educational sector.

At present, the global market for online learning has expanded by over 900% since its introduction in 2000.[3] Furthermore, the Covid-19 pandemic has led the industry to grow exponentially, making it the fastest-growing market in the education industry. In just five years from the onset of the outbreak, the industry is projected to experience a growth of over 200%.[4] The number of online learners is also expected to grow to nearly 60 million people by 2027.[5] This exponential growth has raised the demand that e-learning platforms operate within a legal framework that protects the interests of all stakeholders involved. The transition has certainly opened up immense possibilities. However, evidence suggests that the new normal has not been beneficial for most students' overall well-being. The objective of my research paper is to examine the negative impacts of e-learning, the need for a legal framework, and to make recommendations towards a robust legal framework for its regulation.

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[1] 'What is E-learning' *The Economic Times* <https://m.economictimes.com/definition/e-learning/amp> accessed 11 September 2024

[2] '1.37 billion students now home as COVID-19 school closures expand, ministers scale up multimedia approaches to ensure learning continuity'(*UNESCO*) <https://www.unesco.org/en/articles/137-billion-students-now-home-covid-19-school-closures-expand-ministers-scale-multimedia-approaches> accessed 11 September 2024

[3] 'Online Education & E-Learning Statistics UK' (*Oxford College*) <https://www.oxfordcollege.ac/news/online-education-statistics/> accessed 11 September 2024

[4] 'eLearning Statistics: Trends, Facts, and more you need to Know'(*Radix*) <https://radixweb.com/blog/top-elearning-statistics> accessed 11 September 2024

[5] 'Online Learning Statistics: The Ultimate List in 2024' (*Devlin Peck*) <https://www.devlinpeck.com/content/online-learning-statistics#> accessed 11 September 2024

THE IMPACT OF E-LEARNING AND THE HAZARDS INVOLVED

E-learning has revolutionised the educational sphere, offering a flexible and transformative learning experience. An incredible hallmark of e-learning is that it blends convenience with accessibility, allowing learners to study from anywhere at their own pace, breaking down geographical barriers, and reducing costs associated with traditional classroom settings. The dynamic nature of online platforms provides a rich, multimedia-driven experience, making learning more engaging and interactive. With a wide range of available courses, students can explore diverse fields and stay updated with the latest developments in fast-evolving industries. E-learning not only democratises knowledge but also fosters global networking, enhances self-discipline, and nurtures personal growth and adaptability in the modern learner. However, there is no rose without a thorn. The new educational revolution has aroused significant concerns in various fields such as health, data privacy, cyber security, Intellectual Property Rights, and accessibility.

1. **Impact on Health**

The new mode of education has affected both physical as well as mental health.

Physical Health: People with eyewear have steadfastly increased in the post-pandemic era. The prolonged hours of online classes force children to stare at the screens for longer periods, causing eye strain and headaches and may even result in long-term vision problems. Besides, E-learning promotes sedentary habits, with students spending long hours sitting in front of computers, potentially leading to obesity, posture problems, or back and neck pain. The online education system also confines today's students within the four walls of their rooms, restricting their interaction with our natural environment. This can adversely affect both physical as well as mental health. Prolonged exposure to blue light emitted by screens can disrupt sleep patterns by affecting the production of melatonin, a hormone that regulates sleep. Poor sleep, in turn, affects learning efficiency, cognitive functions, and overall health.

Mental Health: In this fast-paced, hyper-connected world of today, mental health has become a glaring issue yet remains woefully unattended. The virtual learning system has fuelled the occurrence of mental health issues among students. As per the reports of WHO, the shift to online learning has led to feelings of seclusion and disconnectedness, as students miss out on

the social interactions they would typically have in traditional classroom settings. There has been a significant hike in depression and suicide rates among students in the past few years. As per the National Crime Records Bureau (NCRB) data, student suicide cases have surged at an alarming rate of 4%.[6]

2. Data Privacy

E-learning platforms collect a wide array of data about their users, often without users fully realising the extent of it. Beyond basic information like names, email addresses, and contact numbers, these platforms can gather more sensitive information such as academic performance, user behaviour, and even biometric data in cases where platforms use facial recognition for proctored exams. This information, when aggregated, provides a detailed picture of a learner's habits, preferences, and weaknesses. This leaves students vulnerable to academic and commercial exploitation and may even result in identity theft. A recent report by the Indian Computer Emergency Response Team (CERT-In) highlighted the serious increase in cyberattacks targeting the education sector in India. In 2022 alone, over 10,000 cyberattacks were reported, primarily involving phishing, malware, and ransomware attacks. These malicious activities have led to data breaches, financial losses, and disruptions to educational activities.[7] It is thus evident from these figures that most of the educational platforms lack robust security measures to protect student data from breaches or unauthorised access.

3. Inequality in Accessibility

The new change has affected everyone, but not in the same manner. It varies in proportion. While for some, it has helped in breaking the barriers of landscapes, the new mode happens to be fruitless. Students from disadvantaged backgrounds, such as those in low-income regions, rural areas, or marginalised communities, are one such stakeholder who faces obstacles with the new mode of education. They face difficulty in procuring the electronic devices that facilitate e-

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[6] 'India's student suicide rate has surpassed overall trend, population growth rate: Report' *The Hindu* (28 August 2024) <https://www.thehindu.com/sci-tech/health/indias-student-suicide-rate-surpassed-overall-trend-population-growth-rate-report/article68577171.ece> accessed 11 September 2024

[7] 'Cybersecurity in Education: Protecting student data in the digital world' *India Today* (18 January 2024) <https://www.indiatoday.in/education-today/featurephilia/story/cybersecurity-in-education-protecting-student-data-in-the-digital-world-2490262-2024-01-18> accessed 11 September 2024

learning. There can also be other issues such as network constraints and a lack of technical literacy. This leads to a digital divide in the society. Moreover, the COVID-19 pandemic highlighted the stark inequalities in e-learning access. As schools across the globe closed and shifted to online learning, millions of disadvantaged students were left behind. According to UNICEF, at the peak of the pandemic, an estimated 1.5 billion children were affected by school closures, with at least one-third unable to access remote learning.[8] Thus, the pandemic further expanded the educational divide, with wealthier students continuing their education seamlessly while disadvantaged students faced months, or even years, of lost learning. Research conducted by Brookings India highlights the exacerbation of existing inequalities due to disparities in technology access during the pandemic. Children from lower socioeconomic backgrounds encountered greater obstacles in participating in online education, impacting not only their academic progress but also their mental and emotional well-being.[9] Thus, this inequality in accessing education creates an unseen divide in society and thus maligns the true spirit of democracy.

4. Intellectual Property Rights

With every revolution emerges a range of legal and ethical challenges, and one of the most significant issues that arose about this digital revolution is the matter of Intellectual Property Rights (IPR). As educational content undergoes increasing digitisation, sharing, and dissemination through e-learning platforms, the protection and management of intellectual property are exposed to new levels of complexity. Promoting education while also safeguarding the rights of creators requires careful and comprehensive deliberation. Some key challenges concerning intellectual property in the field of education include easy duplication and distribution, ownership of educational content, and commercialisation.

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[8] 'New School Year in the COVID-19 era' (UNICEF) <https://www.unicef.org/laos/press-releases/new-school-year-covid-19-era> accessed 11 September 2024

[9] John R. Allen and Darrell M. West, 'How to address inequality exposed by the COVID-19 pandemic' (*Brookings*, 04 November 2020) <https://www.brookings.edu/articles/how-to-address-inequality-exposed-by-the-covid-19-pandemic/> accessed 11 September 2024

5. Digital Overload and Burnout for Educators

Just like students, educators may also suffer from digital overload and burnout due to the constant requirements to engage with technology, prepare digital materials, and manage online classrooms. They may also be forced to work beyond their stipulated time, leading them to work pressure and this, in turn, may affect the quality of imparting education.

INDIAN LEGAL FRAMEWORK

Online education in India is governed by a mixture of national policies, regulations, and guidelines from government bodies like the University Grants Commission (UGC), the All India Council for Technical Education (AICTE), and laws related to Information Technology and Education. The following are the primary rules and policies governing e-learning in India:

The Information Technology Act 2000 (IT) Act 2000[10] serves as a foundational legal framework that facilitates the growth and governance of online education in India. The Act entitles the government to regulate IT infrastructure and services in the country. It also mandates cyber security measures to protect sensitive data, ensuring compliance with the University Grants Commission (UGC) guidelines and Distance Education Regulations.

University Grants Commission (Online Courses or Programmes) Regulations, 2018 (UGC): The University Grants Commission (UGC) regulates online education in India through the UGC (Online Courses or Programmes) Regulations, 2018.[11] These regulations permit higher educational institutions to offer online Certificate, Diploma, and Degree programs. The UGC mandates that online courses must meet specific quality standards, including content delivery through a structured four-quadrant approach involving e-tutorials, e-content, web resources, and self-assessment tools.

All India Council for Technical Education (AICTE) Guidelines 2021: The All India Council for Technical Education (AICTE)[12] Regulates e-learning through its Guidelines for Open and Distance Learning Education and Online Education, established in 2021. These guidelines facilitate online technical courses, provided they meet specific criteria. AICTE's regulations aim

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[10] The Information Technology Act 2000
[11] The University Grants Commission (Online Courses or Programmes) Regulations 2018
[12] The All India Council for Technical Education (AICTE) Guidelines 2021

to ensure that online education in technical fields maintains high standards of quality and accessibility.

Copyright Act 1957: The Copyright Act 1957[13] plays a significant role in protecting the Intellectual Property Rights of educators over their original materials, such as course content and e-learning resources. It grants exclusive rights to creators, allowing them to safeguard their work from unauthorised use and reproduction. Moreover, it provides legal recourse for copyright infringement, enabling educators to take action against unauthorised exploitation of their content. Overall, the Copyright Act fosters a secure environment for online education by promoting academic integrity and responsible use of educational resources.

The New Education Policy, 2020: The goals of the New Education Policy (NEP) 2020[14] encompass expanding educational opportunities, particularly for children with special needs, while recognising technology as a valuable tool for educators. Furthermore, it advocates for the establishment of digital libraries and aims to eliminate language barriers between students and teachers. Additionally, NEP 2020 emphasises the necessity of enhancing digital infrastructure in schools, including high-speed internet access, digital devices like tablets and laptops, and digital educational resources.

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021: The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021[15] Serve as secondary legislation that supersedes India's Intermediary Guidelines Rules 2011.[16] These regulations play a crucial role in supervising the activities of digital platforms, encompassing those engaged in online education. As per the stipulations, digital platforms must comply with specific due diligence requirements, including the appointment of grievance redressal officers and the establishment of a robust grievance redressal mechanism. These rules mark a significant step towards ensuring accountability and user protection in the digital sphere.

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[13] The Copyright Act 1957
[14] The New Education Policy 2020
[15] The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021
[16] Sumeet Guha and Dr. Shreya Matilal, 'Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021- A Reassessment of the Contours and Limits' (2023) 8(2) NUJS Journal of Regulatory Studies <https://www.nujs.edu/wp-content/uploads/2023/07/2-1.pdf> accessed 11 September 2024

THE LACUNAE IN INDIAN LAWS

The effectiveness of Indian laws in regulating e-learning is a complex issue, shaped by factors such as the rapidly evolving nature of technology, the growth of online education platforms, and the diverse educational needs across the country. As changes occur rapidly, legal frameworks often struggle to keep pace with them. The existing laws may not fully address the new challenges related to virtual classrooms, digital assessments, AI-based learning systems, or the growing use of mobile apps for education. Though the pandemic has been settled, the newly found possibilities are still being used recklessly in addition to the traditional system. It has several advantages, but the burden is more on students. This severely affects their health. The most severe lacunae in the existing framework is the lack of laws to control the unlimited conduction of online classes without any breaks, thereby preventing oneself from allotting time for other activities.

Enforcement of data protection is still evolving, and many small-scale platforms may not adhere strictly to best practices. Also, India still lacks a comprehensive data protection law, as the Personal Data Protection Bill is not yet enacted.[17] Also, though there are regulations formulated by UGC, the regulatory scope is primarily limited to recognised universities and institutions. There are many unregulated private players offering courses that may not meet educational standards. Thus, enforcement is often uneven, leading to variability in quality.

There are laws such as the Copyrights Act to protect Intellectual Property Rights, but coming to its implementation, policing intellectual property violations in the digital space is difficult. E-learning platforms must continuously monitor for copyright infringement, but many violations go unnoticed or unaddressed. E-learning platforms are also susceptible to cyber-attacks and data breaches. While CERT-IN guidelines mandate certain cyber security standards, enforcement and monitoring are not always robust. Smaller platforms may lack the resources to comply with stringent cyber security measures, making students' data vulnerable to attacks. Moreover, there is a significant digital divide in India, with larger sections of the population

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[17] 'India's Digital Personal Data Protection Act 2023 vs. the GDPR: A Comparison' (*Global Privacy & Security Compliance Law Blog*, 13 December 2022) <https://www.globalprivacyblog.com/2023/12/indias-digital-personal-data-protection-act-2023-vs-the-gdpr-a-comparison/> accessed 11 September 2024

lacking access to the Internet and digital devices, particularly in rural areas. In 2019, in the case of Faheema Shirin v State of Kerala,[18] The Court recognised the right to access the Internet as a fundamental right under Article 21 of the Indian Constitution about the right to education, but still, the existing framework has failed to ensure its accessibility to all.

RECOMMENDATIONS

Indian laws have established a foundation for regulating e-learning, especially concerning privacy, intellectual property, and the quality of education from accredited institutions. However, the effectiveness of these laws is limited by several obstacles, such as enforcement challenges, regulatory gaps for private platforms, and the digital divide. As e-learning grows in popularity, further improvements in legal frameworks, its better enforcement, and stronger infrastructure are necessary to ensure a more effective and equitable e-learning ecosystem in India. Following are a few recommendations for the same:

- The government can introduce guidelines limiting the amount of continuous screen time and mandating periodic breaks.

- Educational institutions and e-learning platforms could be required to incorporate mental health resources and support systems into their services.

- Restrictions on e-learning for younger children (under a certain age) could be enforced.

- Laws that protect the work-life balance of educators in e-learning environments, such as restrictions on after-hours work or guidelines on workload distribution, could be introduced.

- Strict data protection laws that mandate high levels of encryption, regular audits, and clear protocols in the case of data breaches can be enforced.

- May set up a dedicated body under the Ministry of Education to oversee e-learning standards and regulations.

- The government may formulate plans and policies to provide free internet access for students in rural areas and affordable learning devices for students from low-income families.

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[18] *Faheema Shirin v State of Kerala* (2020) 4 KER LJ 634

CONCLUSION

E-learning is rapidly reshaping the educational landscape, uplifting students into a digital realm where knowledge is at your fingertips 24/7. The new system has had a significant impact on the society. It has generated both benefits as well as challenges. Though there are laws in the arena, the existing legal framework appears to be inadequate in meeting the newly evolving challenges. This underscores the need for new laws for effective regulation of online education. Only an efficient legal framework can hold educational institutions and tech companies accountable for ensuring student and educator well-being. Without legal standards, there is a risk that e-learning could prioritise convenience and profitability over other priceless wealth such as health. Thus, the surge in e-learning calls for more than just innovation—it demands robust legal regulation to keep pace with the digital tide.