



The Indian Journal for Research in Law and Management

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THE GHOST IN THE CLASSROOM: WHY INDIA’S DIGITAL DIVIDE IS A LEGAL CRISIS, NOT A TECH GLITCH

(Tanvi Firodiya)

Abstract: The COVID-19 pandemic did not create India’s educational inequality — it simply made it impossible to ignore. When schools shut in March 2020 and learning moved online, millions of children from marginalised communities found themselves on the wrong side of what this paper terms the “silicon curtain.” This article examines the digital divide in India not as a technological gap but as a constitutional crisis rooted in the failures of law and policy. Drawing on Article 21-A of the Constitution and the Right of Children to Free and Compulsory Education Act, 2009, the paper argues that the State’s inability to guarantee digital access amounts to a structural violation of the fundamental right to education. Through a socio-legal lens, the article analyses how intersecting inequalities of class, caste, and gender compound digital exclusion, and how the legal framework — frozen in the assumptions of 2009 — has failed to evolve alongside the demands of a digital-first educational reality. The paper further critiques the judiciary’s restrained response, contrasting the Kerala High Court’s progressive reading of internet access as a prerequisite for education against the Supreme Court’s broader reluctance to intervene. It concludes with a call for legislative reform, including the modernisation of infrastructure standards under the RTE Act and an extension of its age coverage, arguing that without structural legal intervention, the right to education will remain a promise written in a language millions of children have never been given the tools to read.

INTRODUCTION: THE GREAT DISAPPEARANCE

The COVID-19 pandemic didn’t actually create India’s educational inequality—it just stopped



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us from pretending it wasn't there. When the Ministry of Home Affairs shut down schools in March 2020, the state made a silent, somewhat reckless assumption: that the classroom could be digitized and uploaded to the cloud without losing anyone in the process. Education shifted to Zoom and WhatsApp overnight, but for millions of children on the wrong side of the silicon curtain, the classroom didn't just move; it evaporated.

Constitutional promises are quite clear on this. Under Article 21-A, the State is duty-bound to provide free and compulsory education.¹ This isn't a mere policy goal; it's a fundamental right, given teeth by the RTE Act of 2009.² Yet, the pandemic exposed a massive constitutional distance between the high-minded text of the law and the grit of marginalized lives. This digital divide wasn't a glitch. It was a structural blockade that turned a fundamental right into a luxury.

I. THE SOCIO-LEGAL ANATOMY OF THE DIVIDE

To grasp why this divide is so incredibly stubborn, we have to look past the hardware. In sociology, education is the engine of Cultural Capital.³ In our new digital-first reality, digital capital—the luxury of high-speed data and a quiet room—has become the new currency of the elite.

1. The Class-Tech Correlation The warnings were everywhere before the virus hit. The NSS 75th Round was a red flag, showing that a measly 24% of Indian households had internet access.⁴ In rural patches, that number sank to 15%. When the lockdown hit, the education

¹ INDIA CONST. art. 21A.

² The Right of Children to Free and Compulsory Education Act, 2009, No. 35, Acts of Parliament, 2009 (India).

³ Pierre Bourdieu, 'The Forms of Capital' (1986).

⁴ Ministry of Stats. & Programme Implementation, NSS 75th Round (2017-18).



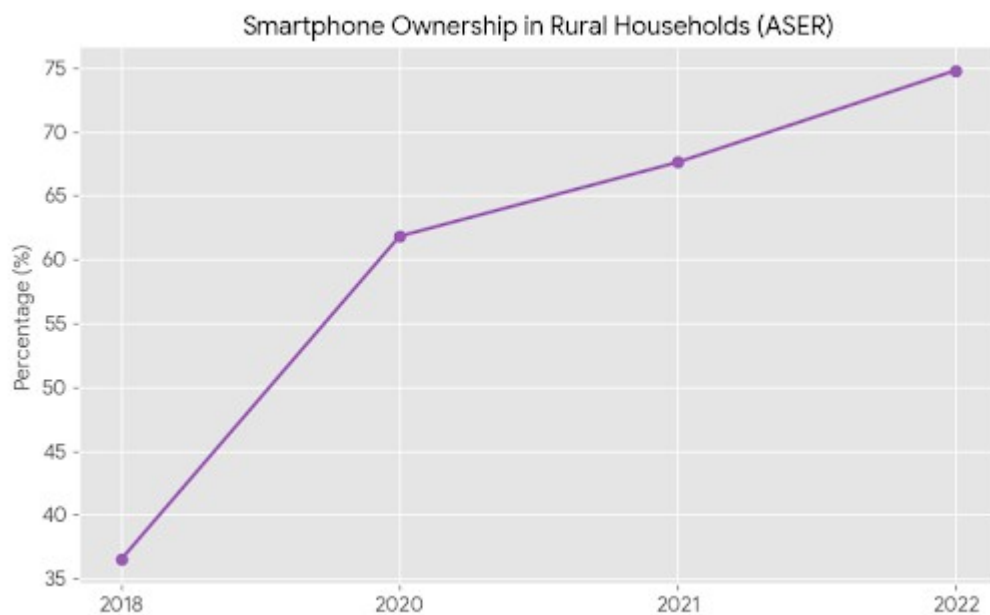
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market didn't just tilt toward the rich—it shut the door on the poor entirely. The massive gap in computer ownership (23.4% urban vs. 4.4% rural) meant rural kids were disenfranchised the second the school gates were chained shut.



[It visually supports the argument about the stark difference between urban and rural internet access (42% vs 15%) and computer ownership (23.4% vs 4.4%).]

2. The Persistence of Caste In India, your class is almost never independent of your caste. Data shows that Dalit and Adivasi students were the most likely to lose all contact with their teachers during the lockdowns.⁵ These communities have been historically pushed to the margins, and

⁵ Annual Status of Education Report (ASER) – Rural, Centre for Literacy and Development, 2022 (2023).



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that physical exclusion has now become digital. Government schools, serving the most vulnerable, lacked the resources to pivot to digital platforms that elite private schools took for granted. The digital divide essentially modernized ancient exclusions.⁶

3. The Gendered Screen We often treat a household as a single unit of shared resources, but that's a myth. Technology is a gendered asset in patriarchal homes. If a family owns one smartphone, it belongs to the father or the son. During the pandemic, girls in rural India faced a triple burden: less screen time than their brothers, more chores, and more parental surveillance over their device use.

II. THE LEGAL ARCHITECTURE: FROZEN IN 2009

The RTE Act was a triumph for its time, but its definition of infrastructure is now a relic of an analog age.

1. The Problem with School as a Physical-Only Space Section 19 of the Act defines a school by its bricks, blackboards, and toilets.⁷ It says nothing about broadband. This creates a bizarre legal paradox: a school can be law-abiding while being totally useless in a digital world. Only 24.2% of government schools had internet by 2021, compared to nearly 60% of private schools. This isn't just a resource gap; it's a legal failure to evolve.

⁶ See Sukhadeo Thorat & Katherine S. Newman, *Blocked by Caste* (2010).

⁷ The Right of Children to Free and Compulsory Education Act, 2009, § 19.

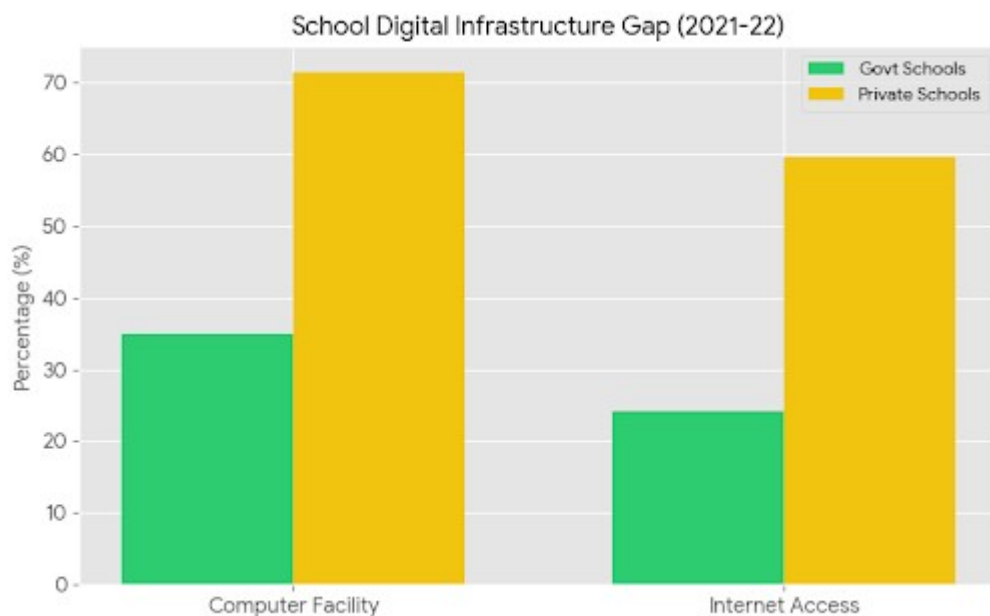


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[This illustrates the legislative failure to mandate digital infrastructure in government schools (24.2% internet access) compared to private schools (59.6%).]

2. The National Education Policy 2020 The NEP 2020 talks a big game about Digital India.⁸ However, it suffers from Technological Determinism—the naive belief that gadgets alone solve deep-seated social rot. It suggests massive digital forums but ignores the fact that digital literacy is impossible if you have to work in a field all day just to eat.⁹

⁸ Ministry of Educ., Nat'l Educ. Policy 2020 (2020).

⁹ Jean Drèze & Amartya Sen, *An Uncertain Glory* (2013).



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III. THE JUDICIAL RECORD: BETWEEN ACTIVISM AND APATHY

The Indian judiciary has a history of being bold, like in the Unni Krishnan case where it read the right to education into the right to life.¹⁰ But when the digital divide hit during the pandemic, the courts seemed to lose their nerve. While the Kerala High Court rightly called internet access a prerequisite for education,¹¹ the Supreme Court largely retreated behind policy wisdom and resource constraints. We see a right to use the internet for trade, but no guaranteed right to use it to learn.¹²

IV. THE TECHNOLOGICAL MIRAGE (POLICY VS REALITY)

Current digital schemes assume every student is the same. Rural smartphone ownership did jump to nearly 75% by 2022, but having a phone in the house is not the same as having a phone for school. Often, the student gets the phone only after the father returns from work, long after the classroom has closed for the day.

¹⁰ Unni Krishnan, J.P. v. State of Andhra Pradesh, (1993) 1 S.C.C. 645 (India).

¹¹ Kerala Students Union v. State of Kerala, W.P. (C) No. 12056 of 2020 (Kerala H.C. 2020).

¹² Anuradha Bhasin v. Union of India, (2020) 3 S.C.C. 637 (India).

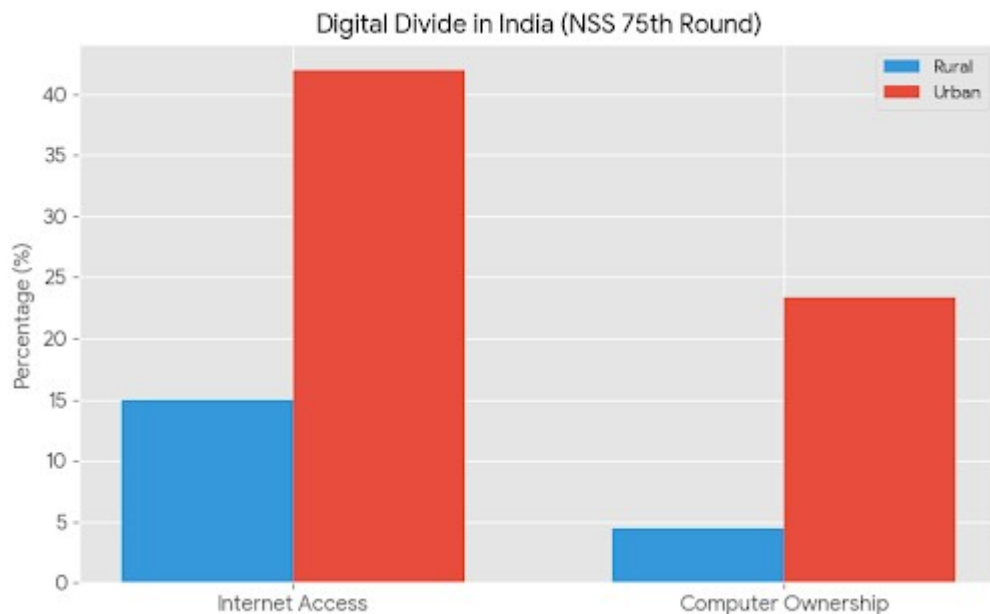


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[It highlights the "Smartphone Paradox"—showing that while ownership jumped from 36.5% to 74.8%, this doesn't equate to educational access for the child.]

V. TOWARDS A RECONCEPTUALIZED LEGAL FRAMEWORK

We need a legal New Deal. This isn't optional. It must include:

- RTE Modernization: Digital infrastructure must be a mandatory school standard, not a bonus.
- Age Extension: The RTE must cover students up to age 18. Secondary school is where the digital gap hits hardest.
- Panchayat Empowerment: Moving away from top-down apps toward community-run



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digital hubs.

CONCLUSION

The digital divide is just a mirror reflecting our oldest social scars. The law cannot remain digitally neutral in an unequal world. Until we address caste, gender, and geography as the core of rights enforcement, the Right to Education will remain a promise written in a language that millions have never been given the tools to read.