



MARCH 2022

# CFHR TALKS: Bridging the Digital Divide in Education during Covid-19

HIGHLIGHTS AND KEY TAKEAWAYS

EXPERT SPEAKERS:  
FATIMA MEHMOOD  
MARK WEST  
ISAAM BIN HARIS



## **Highlights and Key Takeaways<sup>1</sup>** **CFHR Talks: Bridging the Digital Divide in Education**

### **Summary**

The Centre for Human Rights (CFHR) conducted a webinar on March 1, 2022 titled “COVID-19 and the Digital Divide in Education”, for the purposes of launching and discussing its latest [publication](#) as authored by Human Rights Officer, Ms. Fatima Mehmood. Moderated by Ms. Sevim Saadat (Co-Founder - CFHR), speakers included Fatima Mehmood herself, Mr. Isaam bin Harris (Partner, Law Concern and Advocate, High Court), as well as Mr. Mark West (Education Specialist - UNESCO).

The key takeaways from the discussion that ensued, are as follows:

#### **1. Educational Inequity Emanating from the Pandemic**

Fatima Mehmood, while introducing her research report, explained that the increased reliance on virtual learning during the COVID-19 induced lockdown exacerbated the already existing digital divide, rooted in gender, income, and socio-economic status. Whilst certain students were able to access education virtually, with little to no difference in the quality of learning resource materials, myriads of students were deprived of this virtual form of learning due to lack of access to the internet. Such students were thus restricted to passive remote learning options, taking the form of pre-recorded lessons aired on televisions and radios.

In affirming the educational exclusion of certain groups in the society in the wake of the pandemic, Mark West reflected on the role of intra and inter-country income disparity as a cause for varied access to virtual education. The cost of a digital device, for example, in proportion to a person’s monthly income varies significantly between the Global North and the Global South. The pandemic and the ensuing reliance on virtual education, thus, aggravated the existing social inequities.

#### **2. Auxiliary Righthood of the Right to Internet Access**

Fatima Mehmood identified that to address this digital divide it is imperative to recognise the right to internet access as an auxiliary right of the right to education under the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC). The two conventions denote the significance of accessibility and adaptability in education, making it practical to read in a right to internet access.

Furthermore, such a right to internet access should constitute an affirmative, positive duty on states, in addition to the existing negative obligation of not impeding internet access. To

---

<sup>1</sup> The key takeaways were compiled and written by Research Associates at the CFHR - Ali Imtinan and Zaineb Bilal.

actualise this right, a resource commitment is also necessary, that is, providing access to internet-enabled devices, general infrastructural development, etc. Equally relevant is an obligation of non-discrimination in order to ameliorate accessibility to the internet amongst those sectors of the population that have been detrimentally affected by its paucity.

Isaam Bin Haris, a constitutional lawyer in Pakistan, asserted that internet access has to be construed as an essential element of the right to education. A contrary interpretation would invoke the constitutional discrimination clause, as providing virtual education without providing equitable internet access is discriminatory against students who do not have such access to the internet.

### **3. Safeguards against De-prioritisation of In-person Schooling**

Whilst endorsing the theme of the report, Mark West voiced his concern about the overreliance on internet connectivity de-prioritising in-person schooling — as it perceivably did during the COVID-19 pandemic with a delayed opening of schools in many countries. In-person schooling is necessary for the development of interpersonal skills of students and forms a material part of the right to education. The learning and development of these skills is overlooked and disregarded in the virtual world of education.

Moreover, governments — in a bid to lower costs — could shift primarily to providing education virtually. This would bring about a lack of interpersonal engagement for students, which could consequently lead to dehumanisation of the educational experience. He further forewarned against other issues relating to internet access: breakdown of digital networks, government surveillance, to name a few. Conversely, in-person schooling does not heavily rely on any external factors. For instance, schools in impoverished, remote areas operate even without unobstructed access to power or other resources. For that reason, West emphasised the need for recognising the right to education, first and foremost, as a right to schooling.

### **4. Entrenching a Right to Internet Access under Pakistan's Legal Framework**

Mr. Haris highlighted that the wording of Article 25-A of Pakistan's constitution, which provides for free and compulsory education, restricts the advancement of the right to a 'manner as may be determined by law', thereby limiting the opportunity of reading into and giving jurisprudential meaning to the right. This becomes particularly problematic in light of provincial educational laws that define education in severely narrow terms.

He deliberated on the prospect of expanding the right to life and the right to human dignity under the constitution of Pakistan to read in the right to internet access, but considered such a course of action to be unreasonable as it is likely to be met with a perfunctory response by the government. Whereas recognising the right to internet access as a right within the right to education will prompt the State to adopt inclusive implementation measures for actualisation of the right to education.

**5. It must be defined what education entails, and what our objectives for education are, in a discussion as to how necessitated digital connectivity is**

Mr. West distinguished the nuances associated with the terms *learning*, *education*, and *schooling*. He delineated the distinction between *learning*, and *education*, branding the latter as planned, and systemized learning. The connotation with *schooling*, on the other hand, is that it takes place in a physical space, with the model of a traditional classroom generalised across schools, and nations. It was contended that schooling and education have been, for a long time, conflated with academic curricular learning, with the onset of COVID-19 bringing on the realisation that such encompassed much more, being inclusive of skills such as interaction with peers and other adults, learning how to socialise—the latent purposes of education. It was emphasised that one of the pillars of learning, which UNESCO propounds, is learning to live with others, and being a part of one’s community. With the onset of digital education, however, the concern narrowed to academic curriculum, student well-being was placed on the backpedal, together with any other functions schooling had previously served. The effect of the shift to digital education led to an isolation that was felt by students, and parents alike, with mental health taking a toll for the worse. Thus, only when it can be defined what education connotes, whether that be achievement as to academic curriculum, or interpersonal skills, can the right to connectivity be effectively debated. Some other pertinent questions he put forward are how significant connectivity reigns across varying age groups, and whether governmental provision of sub-standard digital education may be a cop out for not providing adequate in-person learning.

Mr. Haris spoke as to how legal interpretations of what education entails must evolve, and ideally, be widened in their ambit to encompass the needs of modern, progressive societies. He concedes that while the right to connectivity should be read in with the right to education, the caveat that such would not be implemented until uniform connectivity was ensured, must also be incorporated within—to not do so may lead to discriminatory practices ensuing.

Ms. Mehmood suggests that relegating education to a stringent definition or pedagogy, may not be the right direction in its delineation, and that instead, education must be defined as adaptable, inclusive, and equal, in order to maintain an ability to transcend across time, and place, to be extrapolated to different contexts, and still be meaningful and sustainable. She also examined what the future of education would necessitate; whether connectivity would be downplayed in light of in-person education gaining an upper hand, or would there occur a hyper-technological advancement of the same, where children would be made to learn in ambient realities, hence, re-emphasizing the imperative need for uniform connectivity?

**6. While COVID-intensified digitised learning may be efficient, it could also manifest as dehumanising**

Mr. West quoted John Dewey as saying that “education is not preparation for life, it is life itself” and then proceeded to ask, if so, then what type of human experience does one want education to entail? While COVID has made learning more efficient, he argued, the

environment that digital learning fosters may be dehumanising, and isolating, engaging solely, the audio and visual senses.

**7. Digitising education through the models being used to disseminate such now, may mean privatising education.**

Mr. West contended that our current models for moving education into digital spaces are entirely reliant on corporate, for-profit providers. The devices used to access education are privately controlled, as is the connection, and the platform (whether that be Google Classroom, or Microsoft Teams), with data collected being fed to organisations that have traditionally profited off of it. Hence, the current model of digitising education is that of privatising education. UNESCO on the other hand, he asserted, focuses on education for all; for it to be constituted as a collective and public good.

He further questioned where public sources exist for digital education, as Ms. Mehmood retorted how her report outlines a number of initiatives taken up by the Pakistani government to disseminate publicly accessible digital learning features. She pointed out that while these structures exist, there is lack of accessibility to them, due to an unavailability of widespread connectivity.

**8. A middle-ground can be sought when it comes to the reconciliation of digital learning with in-person education in the future**

Mr. West maintained that the first step in such a reconciliation would be connecting schools together, while still keeping the focus on schooling as an in-person experience, so as to give schools a chance to adapt to the digital world. Digital learning does not also have to be necessarily isolating, since it can manifest together with peers, forming a pedagogy concoction that incorporates both distinct types of learning. He contended further that this model also proves to be beneficial for profitability, and target advertising.

**9. Probable safeguards upon digitised education can be effectively brought about once the right to connectivity is recognized**

Ms. Mehmood conceded that safeguards are extremely significant where it concerns digital education, which is something her report recognizes, and aims to provide solutions to, in light of competing interests, and the probable capitalization and privatisation of education that digitising education may give rise to. These factors, however, she argues, should not hamper the realisation of the right to connectivity, as only after such recognition is made, can a meaningful conversation be had around associated safeguards.

**10. Public-private partnerships are integral in the effort to reach uniform connectivity**

Ms. Mehmood pointed out that the right to connectivity is best manifested through cooperation between governmental entities, and private educational institutions, something her report takes note of. Mr. Haris, on the same note, spoke of the fact that in Pakistan, private

institutions are regularised by the government, and that the scope of such oversight is wide enough to encompass its ability to demand such entities to make their contribution in setting up infrastructures for connectivity. He provided an example from the Province of Sindh, Pakistan, where the law states that schools must take in 'disadvantaged students', free of cost, and to raise funds for the same. There does exist some legal scope, thus, which may be utilised in a similar way to ensure the provision of connectivity.

### **11. Instead of waiting for a watershed moment, the right to connectivity must be actively pursued**

Mr. Haris contended that students need not wait for a watershed case, and can instead, pursue their right to connectivity through public interest litigation, if they so wished. Considering how Pakistan is a judicially active country, judicial scrutiny of this right would assist with the construction and interpretation of what the term 'education' entails, and set up necessary precedents for future scenarios.

The Webinar was thus concluded, with an agreement that the subject matter raised pertinent questions of law and policy, and that it was significant that all key stakeholders involved, worked in collaboration to form possible remedies.

---

### **Questions and Themes Raised for Further Discussion**

- Beyond the right to connectivity, is there also a right to disconnected in-person education?
- What is the scope for judicial interpretation of a right to internet access as part and parcel of Article 25A (right to education) in the Constitution of Pakistan?
- Should the right to education be inclusive of specific modes and means of accessing education?
- Where are the public spaces for public education online?
- Is the current lack of safeguards sufficient reason to impede recognition of a right to internet access in education?

For feedback, queries and questions, contact [fatima.mehmood@cfhr.com.pk](mailto:fatima.mehmood@cfhr.com.pk)