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Legality of Homeschooling in India and its Impact on Children in Light of Right to Education

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ABSTRACT

Home-schoolings, as the name suggests means schooling the child at home. The main purpose of this is to cater to the specific needs of the child. This type of education is largely different from public-schooling and while it can be considered as an alternative to public-schooling, this alternative is not free of its share of fair problems. Home-schooling is also defined as the teaching and a learning situation, where children spend the majority of the regular school time in or near their home, instead of attending a conventional school. But with the enforcement of RTE Act, it seems that there are certain barriers for home-schooling in India. The RTE Act has raised questions regarding the legality of Home-Schooling in India. The aim of the author in this paper is to understand the legality of home-schooling in India in light of the RTE Act and the subsequent impact of home-schooling in India. The author has analysed the present paper through the doctrinal research methodology. Secondary data including journals, research papers, books, case laws and newspaper articles have been referred. It can be concluded the legality of Home-Schooling in India is still uncertain, but with the affidavit filed by the Union MHRD in the case of Shreya Sahai and Ors. vs. Union of India and Ors., it can be understood that it is still legal. It remains to be seen if in future the RTE Act will be amended to include home-schooling as well.

Keywords: Children, Education, Home-Schooling, Parents, Public-Schooling, RTE Act

I. INTRODUCTION

Home-Schooling liberates students from the traditional chalk and talk method which is a far cry from the 'one size fits all formula' of learning. Home-schooling, as the name suggests means schooling the child at home by the parents, in most of the cases. The main purpose of this is to cater to the specific needs of the child. This type of education is largely different from public-schooling and while it can be considered as an alternative to public-schooling, this alternative

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is not free of its share of fair problems. The concept of home-schooling is not new. Recently, it has gained a lot of prominence.²

According to (Ray, 2001), homeschooling is defined as "Learning or teaching situation where children spend the majority of the conventional school day in or near their home in lieu of attendance at a conventional institution of education. Parents or guardians are the prime educators of their children". Children can include either kids or teenagers. In the present world, there has been a broadening of the home-schooling movement to include a number of families seeking an alternative educational experience for their children (Rivero, 2008c).

During the past decade, there has been an increase in the number of children seeking formal education by going to schools. In the case of homeschooled children, they are schooled at their homes. Home-schooling re-emerged in 1970-1980s. This concept, while, emerging in India, is prominent and practiced in the Western countries, like, the U.S and the U.K. The major reason behind this trend is that the parents feel that public-schooling is inefficient. (Ray, 2004) Nowadays, parents want to break away from the conformist educational code and practices. (Online, 2019)

Objectives:

1. To understand the concept of home-schooling.
2. To analyse the legality of homeschooling in India in light of RTE Act.
3. To study the impact of home-schooling on children.

Research Methodology:

The present paper was analysed through the doctrinal research methodology and descriptive method of research was used. Secondary data including journals, research papers, books, case laws and newspaper articles have been referred.

Although there are a number of other techniques, the researcher has followed a descriptive method as the aim of this study is to understand whether home-schooling is legally allowed in India. The researcher has done an effective literature review of data and then analyzed and interpreted the data. This research is an analysis of the cause and effect of home-schooling and how a child behaves in a home-schooled environment. The researcher does not seek to examine a causal relationship between variables; thus, there are no independent or dependent variables in this descriptive study.

² Apple, M. W. (2013). Gender, Religion, and the Work of Homeschooling. In *Gender, Religion and Education in a Chaotic Postmodern World* (pp. 21–39). <https://doi.org/>

II. LITERATURE REVIEW

History of Home-schooling: According to Angelis (2008), understanding home-schooling from a global perspective, it should be taken into account that during the 17th and the 18th centuries, home-schooling was the only way to acquire education, especially for the colonial children. With the increase in the population, problems of poverty and possession of traditional values and religious beliefs, there has been a strong view among parents that home schooling would be an appropriate and better option. (Rivero, 2008a, 2008b) This also ensured that their children would be educated under their supervision and management. In some cases, where the families were affluent, they hired tutors to educate their children.

Earlier, it was seen that the families with strong religious values and beliefs turned to home-schooling to provide for a more religious based education for their children. Further, (Apple, 2013) feels that it was seen as an opportunity to challenge secularity and enable the formation and growth of religious movements. (Martin-Chang et al., 2011) states that the contemporary homeschooling movement began sometime around mid-century as a liberal, rather than a conservative, alternative to public education.³

Over the years, various factors ensured that the trend shifted from home-schooling to public-schooling. According to (Van Galen & Pitman, 1991), some of the factors being, compulsory attendance laws, disillusionment and shifting responsibilities which started with industrialization.

Homeschooling re-emerged in the 1970s, Austrian philosopher, (Illich, 2018) advocated self-directed education and wrote a series of essays critiquing institutions of industrialised culture, including schools. American educator John Caldwell Holt coined the term 'unschooling' to refer to child-led education. Further, (Holt & Farenga, 2009) feels that 'unschooling' means to learn and teach that does not resemble school learning and teaching.⁴

Features of Home-schooling: Home-schooling makes provision of a personalized curriculum that puts emphasis upon the real world learning and community problem solving. Further, it assists in making provision of knowledge and information regarding important areas. In the case of home-schooling, there are not any particular rules or policies that the individuals are required to put into practice. This means that there are no fixed timings or dress codes to be adhered to.

³ Holt, J., & Farenga, P. (2009). *Teach Your Own: The John Holt Book Of Homeschooling*. Da Capo Press.

⁴ Fields-Smith, C. (2020). Yvette: Homeschooling as Split-Schooling—Homeschooling One of Two. In *Exploring Single Black Mothers' Resistance Through Homeschooling* (pp. 83–103). https://doi.org/10.1007/978-3-030-42564-7_5

(Carlson, 2020) The child also receives due personal attention and care and can be managed easily. Home-schooling diminishes negative peer influence on the child. (Vahid & Vahid, 2007) explains that home-schooling can be a great path for socializing a child and for excelling academically in a 21st century world. Further, he states that homeschooling can lead to the tranquility in family life and is a better alternative than public-schooling. In the present scenario, bullying is one of the worst faced problems by adolescents. This is greatly prevented during home-schooling.

Overview of Home-schooling in India: In India, Nobel laureate Rabindranath Tagore was a big critic of the country's traditional idea of education. In stories like *Parrot's Training* (1924), he ridiculed colonial education, which put the natural impulses of a learner under lock, and tried to educate him through harsh discipline. The satire talked about how traditional education is mainly focused on textbooks and authoritarian figures, completely neglecting the child's needs in the process. Tagore also blamed schools for giving birth to robots with no sense of individuality. In the late 1990s, Udaipur-based Manish Jain launched the Shikshantar Andolan to rescue education from the "artificial and oppressive" formal schooling environment. In 2010, he co-founded Swaraj University, an institution dedicated to self-designed learning-besides green entrepreneurship. (Vittachi et al., 2007)

Impact of Home-schooling on children: Often, it is assumed that home-schooled children have poor social skills and their social interactions are limited. Since home-schoolers aren't exposed to peer pressure and teasing in a classroom setting, a student is more likely to think for himself and create his own ideals. Incidentally, during school, a student can focus more on learning than, for example, his clothes, fitting in or bullies. This increases their self-esteem too. (Fields-Smith, 2020) Home-schooling is seen to be beneficial in the case of special needs children. (Rivero, 2008b) suggests that for those children who are in any way different from the norm, it is virtually impossible to learn in the chaotic and unforgiving environment created by the formal schools. In such cases, it is better to home-school them.⁵

On the other hand, the child might not get to interact with other children of its age, limiting the child's social circle to their siblings. The lack of socialization proves to have detrimental effects in a number of ways. When there is only one child at home and he is subjected to home schooling, this will add to his loneliness and frustration. (Quist et al., 2019)

⁵ Martin-Chang, S., Gould, O. N., & Meuse, R. E. (2011). The impact of schooling on academic achievement: Evidence from homeschooled and traditionally schooled students. In *Canadian Journal of Behavioural Science/Revue canadienne des sciences du comportement* (Vol. 43, Issue 3, pp. 195–202). <https://doi.org/10.1037/a0022697>

III. DISCUSSION

Legality of Home-schooling in India - barriers created by RTE Act:

With the enforcement of Right to Free and Compulsory Education Act of 2009 on April 1st, 2010, questions arose regarding the legality of home-schooling in India because the Act mandated compulsory attendance in schools. The Act makes education “free and compulsory” and mandates every child between the ages of 7 and 14 to attend school without any awareness of the inherent contradiction and fails to mention any specific consequence for parents who don’t send their children to school. Further, the RTE Act does not recognize a child’s right to education at a site other than a school fulfilling the recognition norms set by the statute under Section 2(n) which defines ‘school’, Section 2(p), Section 4 and Section 8(a)⁶. (*Enabling a Right to Education of Choice: Homeschooling in India - Spontaneous Order*, 2018, *Is homeschooling legal in India?*, 2013) This means that schooling imparted at any other place is not acceptable and the Act clearly restricts home-schooling.

Another legal barrier created by the RTE Act is over the external certification of elementary education through home-schooling. Proponents of home-schooling usually avail the programmes of the National Institute of Open Schooling (NIOS) which is the Open Basic Education (OBE) programme for certification. The OBE programme’s value lies in the fact that it is recognised by the Government of India as equivalent education to formal primary and upper primary schooling for purposes of higher education and employment. However, due to the restrictive notion of elementary education germinated by the RTE Act, the NIOS announced in 2011 that in light of the RTE Act, the OBE programme will discontinue catering to children of 6–14 years of age after 2013.(Bhalla, 2018)

In the case of *Shreya Sahai and Ors. vs. Union of India and Ors.*⁷, a public interest litigation was filed by the petitioner, Shreya Sahai, a 14 year old contending that the RTE Act does not recognise any other mode of imparting education except the one through formal schooling, which is in violation of the fundamental rights of children. The PIL was filed to urge the State to amend the RTE Act to include homeschooling and alternate education schools in the definition of specified category under Section 2(p) of the impugned Act and to let NIOS continue serving the academic interests of the creatively focused talented children, nurturing

⁶Section 2(n) of the Act, which defines the term ‘school’ as “any recognized school imparting elementary education”, Section 4 of the Act, as per which “[w]here a child above six years of age has not been admitted in any school .. then, he or she shall be admitted in a class appropriate to his or her age”, and Section 8(a), as per which the government is obligated to “ensure compulsory admission, attendance and completion of elementary education by every child of the age of six to fourteen years”

⁷ W.P.(C) 8870/2011.

their gift, aged 6-14 years with no academics dilution⁸. The Union Minister of HRD on behalf of Union of India filed an affidavit stating that there is nothing illegal about home-schooling, and that the RTE Act doesn't restrict home-schooling. However, it also disclosed that the OBE Programme of the NIOS would not cater to children in the age group of 6–14 years beyond March 2015. The petition was ultimately dismissed by the Delhi High Court in 2013 as it would not be appropriate for the Court to issue directions to the Center to amend Section 2(p).

Since then, the OBE programme has been extended for 6-14 year old children periodically, first till March 2017, and most recently, till March 2020. The same is “subject to the NIOS showing regular progress on mainstreaming children as per Section 4 of the RTE Act” according to Union MHRD. This indicates that the child should be admitted to school defined under Section 2(n), which essentially excludes home-schooling.

The other option for home-schooled candidates is the Cambridge exams that can be taken by private candidates—namely the IGCSE (Class X), and Cambridge ‘AS’ and ‘A’ levels (Classes XI and XII). These exam results are recognised by institutions in India and internationally. (Sridharan, 2019)

IV. CONCLUSION

Human beings grew up, developed, and matured long before the establishment of formal schools, whether private or governmental, came into existence. The idea that children can get proper education only from the conventional schools is ill-founded. But as a country it ensures that there is a unified single education system in place. A question definitely arises here, can education be brought under the ambit of one size fits all?

Fundamentally, home-schooling will continue to challenge modern conceptions of schooling and education. Conventional categories of schooling, curriculum, and achievement will continue to blur, shifting not only people's perception of education but will very likely result in a broader society. Homeschooling will remain fertile ground for research—not only as a fascinating educational phenomenon in and of itself, but also for what it pushes us to consider about the purposes of education more broadly.⁹

As far as the legitimacy of home-schooling in India is concerned, there is no clarity. While the onus is on the State to provide education to all children between the ages of 6-15, there is no

⁸ *Is homeschooling legal in India?* (2013, August 14). Homeschooling India. <https://homeschoolingindia.in/homeschooling-legal-india/>

⁹ Online, F. E. (2019, February 17). *Why parents are choosing to unschool their children*. The Financial Express; The Financial Express. <https://www.financialexpress.com/industry/why-parents-are-choosing-to-unschool-their-children/1489915/>

onus on the parents to send their children to school. It remains to be seen if in future the RTE Act will be amended to include home-schooling as well which will resolve this confusion.

Home-Schooling or self-education while still in nascent stage in India, found advocates in Rabindranath Tagore who called schools of his times as ‘prisons’ and in his words:-

*“And for that they must be trained, not to be soldiers, not to be clerks in a bank, not to be merchants, but to be the makers of their own world and their own destiny. And for that, they must have all their faculties fully developed in the atmosphere of freedom.”*¹⁰

¹⁰ Tagore, R. ‘*The Schoolmaster*.’ The English Writings of Rabindranath Tagore, Volume 3, A Miscellany. Ed. Sisir Kumar Das. Delhi: Sahitya Akademi, 2006 (1924), 509.

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