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The Role of the New Education Policy (NEP), 2020 in Enhancing the Innovative Legal Studies and Protecting the Socio-Economic Rights of the Law Learners in India

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ABSTRACT

The development of India in one of the most prominent democracies of the world, just, socially conscious, cultured, and compassionate country preserving liberty, equality, fraternity, and justice for all that is envisioned in the Constitution of India, depends vehemently on the higher education policy of the country and this development points towards the protection of Socio-Economic Rights of the learners as well as of the people around these young learning minds. The economy and ability of the country to sustain livelihoods are both greatly aided by higher education policy of the country. India is transforming into a society and economy based on knowledge. Given the demands of the 21st century, effective higher education must work to create morally upright, considerate, all-round creative minds. It must allow someone to study one or more specialized fields of interest in-depth while also fostering character development, ethical and constitutional values, intellectual curiosity, a scientific temperament, creativity and a spirit of service. All these criteria are equally applicable for the development of the modern legal education system in India as well. In 2020, the Government of India introduced New Education Policy, 2020 which introduced certain groundbreaking ideas in order to invite some fresh air to the age old education system of India that involved both sided Teacher and Student oriented teaching and learning process on the basis of the outcome of every course that helps to enhance the expertise of the learners which helps them to protect their Socio-Economic Rights in the contemporary globalized world. This present paper intends to look into this factor specifically involved with the legal education in India.

Keywords: Socio-Economic Rights, New Education Policy, Legal Education, Innovation, and Outcome Based Approach.

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I. INTRODUCTION

According to the *Sociological School of Jurisprudence*, law is one of the most important instruments for the attainment of governmental objectives and in order to meet these objectives the government needs to frame specific laws for the specific sectors of human lives. With the growing needs of the human society and with the expansion of the concept of human dignity, the government understood the need of framing laws relating to education as well. According to the *American jurist Cardozo (1870-1938)*, law transcends the limitations of the society and help the people to attain the basic needs including education in a given social order.² The founding father of the *American Sociological Jurisprudence*, *Roscoe Pound (1870-1964)* opined that the interests of the people have to be secured by the government. He distinguishes between individual interests (life, liberty, equality); public interests (public utility services in general) and social interests (interests involved in social lives). This third category of interest involves the interest of general security, protection of morals and the conservation of social and natural resources, the management of which requires the basic educational values within the people. Hence, the government always ought to be under an obligation to ensure quality of education to its people.³

In this regard, specifically, on the point of knowledge and education, the mention of the famous jurist *John Finnis (born 1940)* is essential who identified that the human life is filled with *seven basic goods which are life, knowledge, play, aesthetic experience, friendship, practical reasonableness and religion*. All these *seven basic goods* are *nature attributed rights* and are not posited or given rights by any legitimized authority in a given legal system. All these basic goods are inalienable in nature and the State has utmost duty to protect them.⁴ This notion of *natural rights* is relevant in today as well and this *inherent right to knowledge* has been transformed into the *Right to Education, as a part of Socio-economic Rights*, emerging as a tool of developing the lives of the people in a holistic way.

The *Constitution of India*, acknowledged the *Right to Education* as *Fundamental Right* in India through the *Constitution 86th Amendment, 2002*. Prior to this, *Right to Education* was enumerated under *Part IV of the Constitution of India* under Article 41 which enunciates that the State has to make fruitful steps in order to ensure education, work, employment and social security. These rights were not enforceable in any *Court of Law* and are only principles to be

² EDGAR BODENHEIMER, *Jurisprudence the Philosophy and Method of the Law*, p.111-128 (Harvard University Press).

³*Id.*

⁴*Id.*

kept in mind while framing policies. However, India has paved a long way from this standpoint and through judicial intervention and interpretation; all these rights have come under the protection of Part III of the *Constitution of India i.e. Fundamental Rights*. Thus, right to study *Law* is a fundamental right in India and the State has the obligation to ensure this right through proper legislative, administrative and innovative tools in order to make the study more effective and useful for the learners.

The Government of India introduced the *New Education Policy, 2020* with the aim of transforming the education system in the country with the specific goals *viz.* Holistic Education involving cognitive, social, emotional and physical development; Inclusive Access and Equality ensuring education at all levels and eliminate disparities in education based on gender, socio-economic status or geographical location; adopting Multidisciplinary Approach to education allowing students to choose subjects from various fields following the integration between arts and science; Flexible learning opportunities involving both online as well as offline learning opportunities. All these criteria mentioned herewith are aiding mechanisms to ensure modern legal outcome based learning procedure. Legal education in India has several stages *viz.* –

1. Undergraduate Education which is known as Bachelor of Law or LLB which focuses on core subjects on the legal domain. This is a mix of both practical as well as theoretical knowledge enhancing mechanism.
2. Post-Graduation in Law which is also known as Masters of Law or LLM that involves more research enhancing skills attached with in depth knowledge on the core subjects of law.
3. The next is All India Bar Examination which every Law Graduate Students must pass in order to be able to practice law within the country and apart from these, there are Doctorate and Post-Doctorate degrees that are included within the higher education system in India.

Though there is Bar Council of India, regulating legal studies in India, however, it directly comes under the domain of New Education Policy and the rules enshrined therein.

II. THE MEANING OF SOCIO-ECONOMIC RIGHTS AND ITS RELATION WITH LEGAL STUDIES

The *Socio-Economic Rights* are those set of rights which are considered to be attached to the human beings in a secondary manner, hence, are also called *Second Generation Human Rights*. The primary rights or the *First-Generation Human Rights* are titled as *Civil and Political Rights*

which include *inter alia* right to life, liberty, equality and security; freedom of movement, thought and conscience; prohibition of slavery and servitude, degrading treatment, arbitrary arrest and punishments so on and so forth. All these primary *First Generation Human Rights* are attributed to human beings by natural reasons. These rights were sufficient for people at the initial stage of the civilization where humans were only struggling to survive in the natural state. But with the growth of the civilization these primary rights became incomplete without another set of essential rights which helps to protect the dignity of the people. These rights are called *Second Generation Human Rights* or the Socio-economic Rights.

These *Socio-economic Rights* include *inter alia* right to work and free choice of work; equal pay for equal work, just and favourable remuneration; right to form and join *Trade Unions*; right to rest and leisure; right to special protection of children, women, disabled and old aged people (Right to Social Security); rights to education; right to health and healthy work environment. All these abovementioned secondary rights are essential for the humans to enjoy their primary rights *i.e.* right to life, equality, liberty, freedom and justice. So through the close look it is found that the first set of rights are not solely detached from the second one, rather, they are interdependent onto one another. For example, in order to ensure right to life right to education and work should also be ensured; similarly for right to education, right to innovation, right to dignity, right to life, liberty and equality have to be ensured.

In 1948 *the Universal Declaration of Human Rights (UDHR)* came into being along with its optional protocols, *International Covenant on Civil and Political Rights (ICCPR)*, 1966 and *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, 1966 in which the international community agreed to acknowledge these rights of the people and give them some measures so that they can enjoy these rights too.

The Constitution of India came into force in 1949 with the *Fundamental Rights (mostly containing Civil and Political Rights except Right to Free and Compulsory Education under Article 21A)* and *Directive Principles of State Policy (consisting of Socio-Economic Rights)*. Fundamental Rights are enforceable in the Courts of India but the Directive Principles of State Policies are not; which makes these rights inoperative at the ground level. All these rights are essential for economic and social development of the people and in order to do so bringing changes into the education system with the aim of invoking cognitive, analytical and innovative ideas is a measure for protection of *Socio-economic Rights* in the country.

III. INNOVATIVE LEGAL STUDIES AND NEW EDUCATION POLICY (NEP), 2020

Innovative legal studies refer to new and creative approaches to legal education and research

that seek to address emerging challenges in the legal ambit involving interdisciplinary perspectives including technology and exploring non-traditional methods of teaching and learning. The following are few examples of innovative legal studies in India-

1. **Experiential Research Based Learning:** Experiential learning such as clinical programs, moot court practice, mock trial, internship, legal-aid practice and so on. These practical experiences help the learners to overcome the gap between the theoretical knowledge and practical experiences.
2. **Interdisciplinary Cognitive Studies:** incorporating economics, psychology, environmental studies, sociology, English, trade laws, business management, cyber space and so on which are interrelated with the core legal theories and help in the understanding of the function of law in the practical world practices.
3. **Institutional Collaborations and Team Work:** innovative legal studies emphasizes on the importance of collaborative studies in legal field. Group empirical research projects, assessment based on teamwork help the learners to achieve a collaborative approach towards the learning process.
4. **Legal Entrepreneurship:** Most of the institutions encourage legal entrepreneurship and also gives the basic knowledge about organizing risk in legal profession. This includes innovation of new teaching techniques, management skills, encouraging students to develop legal teaching or firm startups or engage in social entrepreneurship in legal field.

Innovative legal studies aims to encourage legal learners to delve into an unconventional way of learning through developing new skills, knowledge and the ability of critical thinking. The first Education Policy was introduced in India in 1968 the then Prime Minister of India, *Srimati Indira Gandhi* on the basis of the recommendation of the Education Commission 1964-1966. This is for the first time Indian education policy demanded for free and compulsory education ensuring Socio-Economic Rights of the youth of India, however, it bracketed the age limit of free and compulsory education between the ages of six to fourteen years, but it strived hard to equalize the education opportunities which went far from the age old stigma conventional in the society.

Article 21A of the Constitution of India makes the right to education compulsory as it is exclusively attached to the Socio-Economic upliftment of the individuals and it attaches the rights of the people associated with these educated individuals. In *Unni Krishnan v. State of*

*Andhra Pradesh*⁵ the Supreme Court of India recognized the fundamental right of every child for free and compulsory elementary education up to the age of 14 years. Article 29 of the Constitution of India implicates that the right to admission into an educational institution is a right which an individual citizen has against all. It is a right beyond the rights of any community or class.

Other than this, the Constitution of India ensures educational rights to the minorities and also ensures the rights to establish educational institutions to the minorities under Article 30. Though the constitution does not define the meaning of the term 'minorities' however the apex court of India through several judgments stated that the minority community could be determined in relation to the entire population of the country and their presence in a state on the basis of their socio-economic and political position in the State.⁶

In this socio-legal backdrop, the New Education Policy 2020 worked as a transformative tool in order to bring changes into the educational sector of the society.

IV. RELEVANCE OF NEP, 2020 IN ORDER TO ENHANCE INNOVATIVE LEGAL STUDIES IN INDIA

Every professional course adds value to the lives of the learners and becomes a tool for enhancing and protecting their *Socio-economic Rights*. In this modern world, everything is of global concern and collaboration of different levels of learning degrees are involved therein. In order to ensure the same, it is essential to indulge and promote *innovation; new cognitive thinking and most importantly invoke inclusivity within the research process*. Learning Law with enthusiasm is the utmost value which an education system can add to a professional course and *the New Education Policy, 2020* has paved that pathway for the same.

In India the *under-graduate Law course* is known as the integrated five-year *B.A. LL.B* program that was introduced in the early 1990s was the catalyst for the first wave of changes in legal education.⁷ The law school paradigm, which took its cues from the west, provided the nurturing environment for young minds to pursue "law" as a profession and career. The required motivation for Indian lawyers to practice abroad and embrace transnationalism has been supplied by law schools. With the growing demand of the legal professional course, the *Bar Council of India* introduced *BBALLB, Specialization LLMs and integrated three years course of LLB*. All these courses are designed with the aim of particular outcomes at the end of the

⁵(1993) 1 SCC 645: AIR 1993 SC 2178.

⁶Ahmedabad St. Xavier's Collage Society v. State of Gujrat, (1974) 1 SCC 717: AIR 1974 SC 1389.

⁷ Prior to this time the *LLB* course was for 3 years only and that in order to pursue that graduation in general course was also essential.

particular course. For example, followings are the Program Outcome of *LLB or BALLB or BALLB-*

1. *Disciplinary Knowledge*: Capable of demonstrating comprehensive knowledge and understanding law as subject to acquire & apply legal knowledge to the complex socio-legal problems.
2. *Problem Solving, decision making and entrepreneurship*: Capacity to extrapolate from what one has learned and apply their competencies to solve different kinds of non-familiar problems in Courts, Industries, Companies as legal practitioner.
3. *Analytical Reasoning and solution finding*: Ability to evaluate the reliability and relevance of evidence; identify logical flaws and gaps in the arguments of others; analyze and synthesize data from a variety of sources of law.
4. *Effective citizenship and society*: Apply reasoning informed by the contextual knowledge to assess societal, health, safety, legal and cultural issues and the consequent responsibilities relevant to the professional legal and demonstrate empathetic social concern and equity centric national development, and the ability to act with an informed awareness of issues and participate in civic life through volunteering.

Apart from this, the followings are the *Program Outcome of LLM* program-

1. *Effective domain Specialization*: Move into a new area of expertise where they can upgrade their potential in their domain area such as *Criminal laws, Corporate Law, Gender Justice, Constitutional Law and Administrative Law etc.* explore and apply advanced studies specialization in emerging legal contexts.
2. *Environmental Sustainability*: Understand the impact of the professional legal solutions in societal and environmental contexts, and demonstrate the knowledge of, and need for sustainable development.
3. *Entrepreneurship and Employability*: To provide a platform for employability by developing professional skills in legal industry and enhance the entrepreneurship skills.
4. *Self-directed and lifelong learning*: Ability to work independently, identify appropriate resources required for a legal research and life-long learning in the broadest context of changing legal paradigms and to develop an attitude of self-reflection while learning & recognize the need to engage in independent and life-long learning in the broadest context of changing legal contexts.

V. INTERNATIONAL LEGAL FRAMEWORK PROMOTING INNOVATIVE LEGAL STUDIES

There are several international legal instruments promoting innovative studies both at global and regional levels which aim to promote innovation in different fields of specialization. The followings are the most prominent instruments at the international level promoting innovative studies-

1. *United Nations Educational, Scientific and Cultural Organization (UNESCO), 1945:* it plays a significant role in promoting and supporting innovative studies across various fields. It strives for the advancement of cognitive studies, promoting cultural diversity for the protection of human rights. *UNESCO* has developed framework so that the researchers can conduct their work in an ethical guided way without infringing the rights of the others. It promotes international cooperation in order to ensure benefit of humanity through innovative learning and teaching process. The New Education Policy, 2020 also incorporates these ideas and innovation in every discipline including legal studies which can incorporate a cognitive approach in every learning process.

2. *Universal Declaration of Human Rights (UDHR), 1948:* This instrument is the first legal document where the international community universally accepts the principles of equality, liberty, fraternity and justice within each municipal legal framework. It enumerates the right to education as a basic inalienable human rights which is essential for ensuring dignity of individuals. Article 18 and Article 19 of the UDHR explicitly states that everybody has the freedom of thought and conscience and that of expression and opinion. These expressions include the ideas of innovative and unconventional thoughts relating to education. Thus it established the foundation for innovative studies and a way for the protection of the socio-economic rights of the individuals.

3. *International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966:* establishing the legal foundation for the recognition of Socio-Economic Rights asserts the right to enjoyment of the benefits of scientific progress and the freedom indispensable for scientific research. Article 13 of the said covenant states that the State parties must strive to design their education policies in such a way so that it can help the mass to develop a human personality, a sense of dignity and most importantly, overall respect for human rights and the concept of freedom. This said article gives specific guidelines for the different levels of education viz. compulsory and free primary education; technically and vocationally skilled and upright secondary education; together with equally accessible higher education system with adequate

fellowship keeping in mind the material wellbeing of the teachers as well. Thus this covenant intends to encourage a perfect balance between the teachers and the students along with vitalizing innovative ideas within the ambit of learning which is an essential criterion in *New Education Policy, 2020* in India.

4. World Intellectual Property Organization (WIPO), 1967: it is an international organization that promotes the protection of intellectual innovative creation of the people including the young learners, researchers and teachers. It is a specialized agency of the United Nations that serves as a forum for cooperation and development of policies relating to Intellectual Properties. *WIPO* is committed to building intellectual property expertise and rising awareness about the importance of the same. It offers educational programs, workshops, online courses to enhance the skills of the individuals and institutions in the proper management and utilization of the innovative ideas within the learning curriculums.

5. World Trade Organization (WTO) and the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs), 1986-1994: TRIPs is an agreement entered into by *the General Agreement of Tariff and Trade (GATT), 1947* members before the formation of the WTO. It establishes the rules for patents, copyrights, trademarks, trade secrets, geographical identifications, traditional knowledge and so on. It establishes several bench marks established by TRIPs through numerous legal instruments dealing with respective categories of intellectual properties *viz.* the Patent Cooperation Treaty (PCT) which enumerates the filing process of Patent that makes the journey of the inventor smooth and Berne Convention of Protection of Literary and Artistic Works that establishes the basic standards for the protection of copyright. Both the instruments strive to facilitate the free flow of creative works across the borders which make the sharing of the literary knowledge easier for the universal community.

All these international legal instruments are intended for the protection of the innovative literary, artistic and scientific creative works. These legal frameworks helped the municipal law makers to frame specific legal framework for the protection and promotion of the intellectual innovations of the subjects of the same. Through the *New Education Policy, 2020*, the Government of India intended to incorporate the international vibe of globalization and invited fresh innovative ideas within the ambit of teaching and learning. In India with the present socio-economic backdrop, ensuring socio-economic rights of the people has never been the fundamental duty of the State and in such situation the people of the country should have the social, legal, economic and educational support so that they can ensure and create their own status ensuring the dignity of themselves along with that of their family and close ones and this NEP, 2020 is the manifestation of that intention of the government in India.

VI. CONCLUSION AND SUGGESTION

Socio-Economic Rights are the most important component of inalienable basic *Human Rights* which aid in ensuring dignity of all, the concept of which is a perplexed one. The meaning of the term *Dignity* is the state of being honoured or respected, having self-esteem or the ability to understand self-worth.⁸ This concept of dignity does not stand in isolation, moreover, it does not have any objective standards. The core concept of dignity varies from individual to individual, community to community, culture to culture and region to region. This is the reason that the world community from Second World War onwards felt the need of legally recognizing the concept of Dignity by the means of *Socio-Economic and Cultural Rights*. These rights *inter alia* include the right to adequate food, right to decent standard of living, right to form associations and unions, right to work in clean and healthy environment, right to leisure and free time, most importantly right to education and right to social security.⁹

In view of the above-mentioned, it is further to state that when the *Law learners* of a country are encouraged with a teaching mechanism that makes them do innovative research and studies, these well trained set of lawyers can help the rest of the people of the country in several different ways which will aid to ensure *Constitutional Rights viz. right to free legal aid, to speedy trial, to justice and most importantly right to relief in case of any legal injury.*

For the observance of all these abovementioned rights it is essential that all the people under a Sovereign are educated, aware and determinate about their socio-economic and cultural standpoint. In order to ensure the same, right to education is essential for all and creating an innovative and unconventional way of teaching and learning environment for the learners. To meet this obligation, the government has to frame policies, legislate laws and designate specified authorities. The New Education Policy, 2020 is one of those legislations which talks about the need of interdisciplinary educational programs based on specific outcomes from every course. To conclude it will be appropriate to say that innovation and innovative idea both are essential for creating an effective learning environment and *NEP, 2020* has created an ambience for the same. However, India needs much more infrastructural backup from the government in order to implement this good legislative intention in a comprehensive way.

⁸ Dignity, <https://plato.stanford.edu/entries/dignity/> (last visited 01.07.2024).

⁹ International Covenant on Socio, Economic and Cultural Rights, 1966.