

Legal Education Under New Indian Education Policy, 2020

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Abstract:

“Children are the future, educate them well and let them lead the way”.

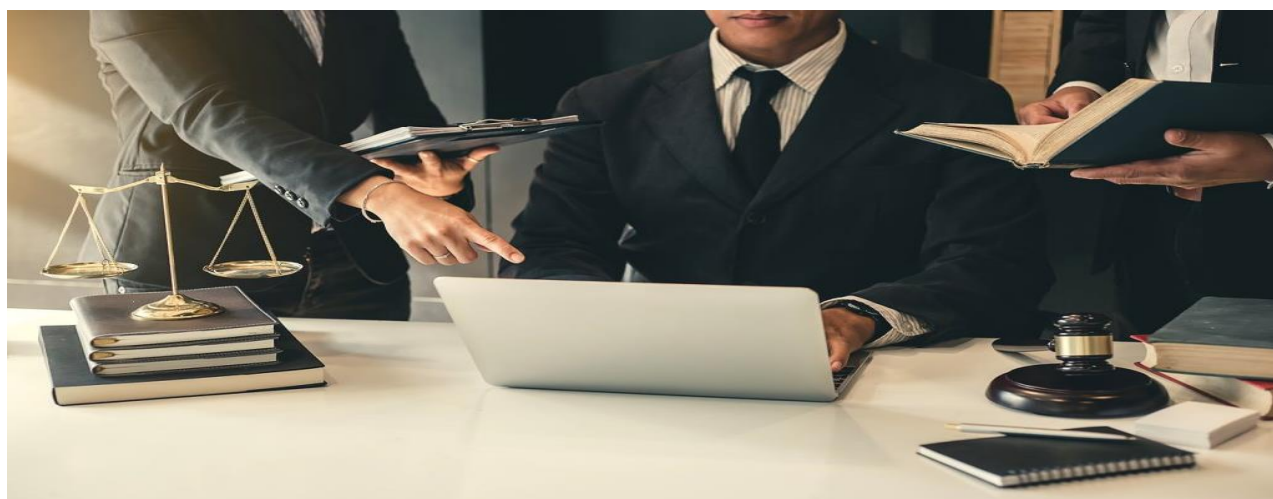
In India, a new education policy typically comes along only once every few decades. The first education policy was in 1968, introduced by the administration under Mrs. Indira Gandhi. This was replaced by the National education policy in 1986, by Mr. Rajiv Gandhi who was Prime Minister at that time. A few years later in 1992, it was slightly modified again by Prime Minister P V Narasimha Rao. and now in 2020, approximately three decades later, a new education policy with drastic changes has been brought in by the ruling government. The details of the policy were released to the nation after cabinet approval on. It was said that this National Education Policy or NEP 2020, would be a comprehensive framework to guide the development of education in the country.

This research paper is based on secondary data collected through different sources and their analysis, which include research papers by different researchers, articles, journals, conference proceedings, periodicals, text books and digital available data analyzed for relevant application of New Education Policy, 2020

Keywords: NEP 2020, Legal Position, Education, Multilingual, Law Curriculum, Legal aid

I. Introduction:

The government has released a draft policy to improve education in India in 2019, with its 484 pages of recommendations to improve education in the country by ensuring it “reflects social-cultural contexts” and “falls back upon the culture and traditions of people which was approved by cabinet in 2020.



The 2019, report makes many sensible suggestions for improving India’s frankly dire state of primary, secondary and further education landscape, though it primarily attracted headlines for dropping version 2.0’s proposal to make Hindi-teaching compulsory in non-hindi-speaking states. But buried on page **303 is a proposal for reforming legal education**, though not necessarily how some have been hoping by nationalizing national law schools or increasing their funding or central support.

The draft report, which only contains recommendations and is not law, makes only two main suggestions:

- *“State institutions offering law education must consider offering bilingual education for future lawyers and judges - in English and in the language of the state in which the law programme is situated,” and*
- *“the law curriculum has to fall back upon the culture and traditions of people, the history of legal institutions and victory of ‘Dharma’ over ‘Adharma’ writ large in Indian literature and mythology”.*

India's development in the 21st century and the fulfillment of our dream of taking our rightful place in the global arena will depend crucially on our ability to strengthen institutional frameworks that underpin governance. Education is a process of human enlightenment and empowerment to achieve a better position in life (Mishra & Mishra, 2020). A key aspect of governance systems is the ability of the State and private interests to adhere to Constitutional values, and establish, support and maintain the rule of the law as envisioned in our founding documents. The maintenance and flourishing of socio-political institutions requires a cadre of professionals in the judicial system, including lawyers, judges, paralegal and administrative staff. All these roles require the continued development of legal education. Further, this Policy envisages a law education that is informed and illuminated with Constitutional values of Justice – Social, Economic and Political – and directed towards national reconstruction through instrumentation of democracy, rule of law and human rights. It recognises that the legal profession has social responsibilities to reach justice to the unreached in rural and tribal areas of the country through community or social justice lawyering. Therefore, legal education is visualised as a public rather than a private good wherein the State, society and markets have distinct interests and reasonable expectations related to their contribution to inclusive and equitable development. Finally, professional education in law has to be globally competitive, adopting best practices and embracing new technologies for wider access to justice and timely delivery of justice. Hence a new legal education policy is found imperative for assigning direction for future change.

This is not the first time that reforms in legal education are put forward for consideration. Due to constant interventions by academicians like late Dr N R Madhava Menon, Dr Upendra Baxi, Dr N L Mitra and others, institutions like Law Commission of India and Bar Council of India have recommended numerous conspicuous academic changes like inclusion of clinical legal education and alternative dispute mechanism as compulsory subjects, etc. But the Indian legal education can be implicitly divided into three classes — The National Law University (NLU) system, private institutions law education system and government-administered law education system. Even though NLUs are administered by the respective state governments, they because of their inherent institutional structure, enjoy certain foundational and administrative autonomy in their academic functions. Due to which they have a flexible procedure to amend syllabus, introduce innovative initiatives and address contemporary legal issues through institutionalized academic interventions.

It is also noteworthy to analyze the social reality that a handful of NLUs is not an answer to the Indian problem of access to justice. Because it is an open secret that a majority of advocates, who actually practice in the lower courts or who work at grassroots levels are graduates from traditional law colleges. Hence, it is of utmost importance that the curriculum and pedagogy of traditional and conventional universities are changed from time to time so that these students are academically equipped enough to grab opportunities and tackle contemporary issues.

II. Legal Education Under Constitutional Act 1950

In the **Constitution of India**, there is no specific entry in the VII Schedule that deals with legal education. The regulation of standards of legal education is subscribed through the more umbrella entries pertaining to higher education and entitlement to practice before courts. “Coordination and determination of standards in institutions for higher education” is the subject matter of Entry 66 of List I of the Seventh Schedule to the Constitution of India. Entry 25 of List III also pertains to education: “education, including technical education, medical education and universities, subject to the provisions of Entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.”

III. Legal Education as in Indian National Education Policy, 2020

Legal Education – The Policy is inexplicably terse in its comments and suggestions for improvement of legal education, when it perhaps requires the most attention given that it shapes the evolution of law and produces future practitioners, jurists and members of the Judiciary. Changes based on verbal persuasion, affective status and modeling behavior can lead to significant changes and redefine the status of women (Mishra,2018). The fundamental Anglican outlook of the Indian Legal System remains unchanged as a consequence of absence of any serious initiative to introduce and mainstream Indic legal jurisprudence, logic and reasoning as part of legal curriculum and as part of law-making in the country. This reflects a deep-seated ignorance, apathy and perhaps even a self-loathing approach to the native legal systems, which held this civilization together even when it was not a single political unit. More importantly, Indic legal concepts have been relegated in their application merely to personal laws and laws relating to religious institutions, forgetting that they had a wider sphere of influence which encompassed all aspects of life given that custom and experience coupled

with the concept of Dharma effectively were the sources of our jurisprudence. This approach positively impacted the society's approach not just to issues of administration, marriage and succession, but also the duty-based approach to environment, which is a raging concern today. While profound Indian Darshanas such as Nyaya, Vaisesika, Mimamsa and other Indian philosophies which form the basis of Indic Legal jurisprudence and are tied to Dharmashastras, are widely taught and learnt outside India, India law schools do not even remotely deal with them. As a consequence, an impression is created in the young and formative minds of law students that the concept of rule of law or all legal principles are necessarily and solely the contribution of Western Thought. No wonder even the highest Court of the land looks to the West for inspiration, as opposed to drawing inspiration from the vast ocean of Indic jurisprudence which is much more in sync with the native pulse of this land and is bound to find greater resonance with the public. For instance, Shri P.V. Kane's seminal work on the Dharmashastras must be made mandatory teaching in all law schools so that students become aware of the native genius of this country. Indic jurisprudence also holds the key to a more restrained approach to use of natural resources, since at the heart of it lies the concept of Dharma, which exhorts balance, restraint and respect for all nature. Therefore, the Draft Policy must expand on legal education instead of paying lip service to it by merely including a paragraph on it.

Curriculum to reflect socio-cultural contexts (P16.7.1): It is the function of legal education to transmit the foundational values of Indian democracy to learners in order to give legal studies the necessary social relevance and acceptability. In doing so, the law curriculum has to fall back upon the culture and traditions of people, the history of legal institutions and victory of "Dharma" over "Adharma" writ large in Indian literature and mythology. Further, there is growing consensus worldwide that the study and practice of law cannot be independent of the culture of society, including the study of classical law texts. Hence, concerned authorities in universities must ensure that the curriculum reflects, in an evidence-based manner, the history of legal thinking, principles of justice, practice of jurisprudence and other related content appropriately and adequately.

Multilingual education (P16.7.2): A new generation of children will grow up to be completely multilingual through the implementation of this Policy. In the meantime, some areas of professional education, such as law education will require innovative solutions to a specific challenge. Legal transactions at the lower courts are conducted in their respective

regional languages whereas those at the High Courts and Supreme Court continues to be done in English, in most States in India. This contributes to the considerable delay in legal outcomes as cases can move up only after the documentation has been translated. State institutions offering law education must consider offering bilingual education for future lawyers and judges - in English and in the language of the State in which the law programme is situated. To facilitate this transition, a host of measures will be undertaken such as, inducting teachers who are well versed in the regional language as well as English, making text books and study materials available in both languages, and allowing examinees to write their examination in either medium. In addition, special cells for translating legal materials from the State language to English and vice-versa will be setup and students who are fluent in both languages will be invited/incentivised to contribute to the work of the translation cells.

Incorporation of the above recommendation serves a two-point purpose; First, at the time of graduation, the students will be well versed with English to carry out academic research, criticize and analyze western thought while developing ideas for to fit the Indian context. At the same time, assisting at the local legal aid centers will help them learn and apply the law in vernacular languages while increasing access to [free legal aid](#) as per the Constitution of India. Second, it will ensure that legal aid centers have trained and active legal minds contributing to the aim of providing quality legal aid.

While the Draft policy seems thoughtful, it seems to have missed the real reforms needed in legal education. There is absence of any discussion on whether teachers of the law may be allowed to practice in light of giving more practical insight to students of the working of the courts. Internships form a major part of the education of law students. Students pay large amounts of money to stay away from their homes during vacation in cities such as Delhi, Mumbai and Chennai to work under lawyers and law firms to learn. The expenses incurred include rent, transportation, food, medical expenses and other daily expenses. These law firms and lawyers extract free labor by glamorizing internship certificates. However, the internships provide little to no remuneration to cover the costs. The internship trend is such that it is inclusive of an honor for any law student to work at a law firm or for senior lawyers for free, while they are the ones primarily engaged in research and drafting. These two activities require maximum time devotion. There have been no recommendations to the MHRD to direct payment of stipend to interns by employers, who spend day and night researching and drafting to learn the requisite skills. These important aspects have been completely ignored in the draft.

IV. Conclusions & Suggestions:

Over all, the Drafted National Education Policy is an average attempt towards reforming the legal education in India. With the institution of the [National Law Universities](#), the ‘schools of law’ meant to compete with the western law schools, it is disheartening to note the lack of attention paid to these devoted sites of social, economic and political progression for India. Further, the rise of the corporate law firm work culture has only induced more and more students to opt for law over traditional fields of medicine and engineering. While laying down well researched reforms in the field of medical and engineering education, the reforms of legal education seem hollow, like an afterthought. While we wish for the law and the courts to be dynamic, it is imperative that the future lawyers of the country are prepared to adopt such dynamicity. Looking back into the past must only be for the purpose of learning from it and rectifying the mistakes. The legal curriculum of India has an implied duty to produce lawyers who can become social reformers of the twenty first century. This is the only way we can truly pay homage to Professor N.R. Madhav Menon and his legacy.

So, the duty is cast upon the government to streamline the profession and rationalize the education. Law is a globally competitive profession and it requires adopting best practices and embracing new technologies to ensure timely delivery of justice.

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CONFLICT OF INTEREST STATEMENT:

The author declare that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.