

Impact of National Education Policy 2020 on Legal Education

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Abstract

Education is the single greatest tool for achieving social justice and equality. Inclusive and equitable education - while indeed an essential goal in its own right - is also critical to achieving an inclusive and equitable society in which every citizen has the opportunity to dream, thrive, and contribute to the nation.

It is fundamental for achieving full human potential, developing an equitable and just society, and promoting national development. Higher education must build character, enable learners to be ethical, rational, compassionate, and caring, while at the same time prepare them for gainful, fulfilling employment.¹

Different countries adopt different approaches to fulfill this objective of holistic education. Government of India announced its New Education Policy which is based on the recommendations by an expert committee headed by Dr. Kasturirangan, Former chairman of the Indian Space Research Organization (ISRO).

New Education Policy 2020 is on the lines of universalizing education from pre-school to secondary level. It replaces a 34-year-old policy to become a more inclusive, holistic, comprehensive, and far-sighted policy to make India a knowledge hub by the end of this decade.

Under the new policy, the government aims to bridge social gaps in participation, access, and learning outcomes in school education with a target of 100 percent Gross Enrolment Ratio (GEER) by 2030.

This policy envisages the revision and revamping of all aspects of the education structure, including its regulation and governance, to create a new system that is aligned with the aspirational goals of 21st century education.

It focuses on quality education at all levels starting from early childhood to higher education.

This paper focuses on impact of NEP 2020 on legal education system along with some suggestions for its effective implementation.

Keywords

Education, Inclusive and Equitable, Higher Education, NEP 2020, Legal Education

Introduction

India will have the highest population of young people in the world over the next decade, and our ability to provide high-quality educational opportunities to them will determine the future of our country. The global education development agenda reflected in the Goal 4 (SDG4) of the 2030

¹ https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf

Agenda for Sustainable Development, adopted by India in 2015 - seeks to “ensure inclusive and equitable quality education and promote lifelong learning opportunities for all” by 2030. Such a lofty goal will require the entire education system to be reconfigured to support and foster learning, so that all of the critical targets and goals (SDGs) of the 2030 Agenda for Sustainable Development can be achieved.

Education thus, must move towards less content, and more towards learning about how to think critically and solve problems, how to be creative and multidisciplinary, and how to innovate, adapt, and absorb new material in novel and changing fields. The gap between the current state of learning outcomes and what is required must be bridged through undertaking major reforms that bring the highest quality, equity, and integrity into the system, from early childhood care and education through higher education.²

The National Education Policy 2020 envisions an India centered education system by considering its tradition, culture, values and ethos to contribute directly to transform the country into an equitable, sustainable, and vibrant knowledge society. By drawing inputs from its vast and long historical heritage and considering the contributions from many scholars to the world in diverse fields the entire system of education is build. It specifically focuses on multidisciplinary and interdisciplinary approach.³

Thus National Education Policy 2020 broaches some significant changes for the entire spectrum of Higher Education in India, and legal education will also not be an exception.

Background

India has gone through two major education policy after independence, first in 1968 and second in 1986 this is the third change that is proposed in 2020. The changes are made according to the need of the time. The main objective of the education policy after independence to make literate and educate the people of India made the skill set improved to the world level.

1968

Based on the report and recommendations of the Kothari Commission (1964–1966), the government of Prime Minister Indira Gandhi announced the first National Policy on Education in 1968, which called for a "radical restructuring" and proposed equal educational opportunities in order to achieve national integration and greater cultural and economic development. The policy called for fulfilling compulsory education for all children up to the age of 14, as stipulated by the Constitution of India and specialized training and qualification of teachers. The policy called for a focus on the learning of regional languages, outlining the "three language formula" to be implemented in secondary education - the instruction of the English language, the official language of the state where the school was based, and Hindi. Language education was seen as essential to reduce the gulf between the intelligentsia and the masses. Although the decision to adopt Hindi as the national language had proven controversial, the policy called for the use and learning of Hindi to be encouraged uniformly to promote a common language for all Indians.

The policy also encouraged the teaching of the ancient Sanskrit language, which was considered

³ Aithal, P. S., & Aithal, Shubhrajyotsna (2020). Analysis of the Indian National Education Policy 2020 towards Achieving its Objectives. *International Journal of Management, Technology, and Social Sciences (IJMTS)*, 5(2), 19-41. Available at: <http://doi.org/10.5281/zenodo.3988767>

² https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf

an essential part of India's culture and heritage. The NPE of 1968 called for education spending to increase to six percent of the national income.³

1986

In 1986, the government led by Rajiv Gandhi introduced a new National Policy on Education. The new policy called for "special emphasis on the removal of disparities and to equalize educational opportunity," especially for Indian women, Scheduled Tribes (ST) and the Scheduled Caste (SC) communities. To achieve such a social integration, the policy called for expanding scholarships, adult education, recruiting more teachers from the SCs, incentives for poor families to send their children to school regularly, development of new institutions and providing housing and services. It called for a "child-centered approach" in primary education, and launched "Operation Blackboard" to improve primary schools nationwide. The policy expanded the Open University system with the Indira Gandhi National Open University, which had been created in 1985. The policy also called for the creation of the "rural university" model, based on the philosophy of Mahatma Gandhi, to promote economic and social development of rural India.⁴

The 1986 National Policy on Education was modified in 1992 by the P. V. Narasimha Rao government. In 2005, Former Prime Minister Manmohan Singh adopted a new policy based on the "Common Minimum Programme" of his United Progressive Alliance (UPA) government. Programme of Action (PoA) 1992, under the National Policy on Education (NPE), 1986 envisaged to conduct of a common entrance examination on all India basis for admission to professional and technical programmes in the country. For admission to Engineering and Architecture/Planning programmes, Government of India vide Resolution dated 18 October 2001 has laid down a Three – Exam Scheme (JEE and AIEEE at the National Level and the State Level Engineering Entrance Examinations (SLEEE) for State Level Institutions – with an option to join AIEEE). This takes care of varying admission standards in these programmes and helps in maintenance of professional standards. This also solves problems of overlaps and reduces physical, mental and financial burden on students and their parents due to multiplicity of entrance examinations.⁵

2020

In 2019, the Ministry of Human Resource Development released a Draft New Education Policy 2019, which was followed by a number of public consultations. The Draft NEP discusses reducing curriculum content to enhance essential learning, critical thinking and more holistic experiential, discussion-based and analysis-based learning. It also talks about a revision of the curriculum and pedagogical structure from a 10+2 system to a 5+3+3+4 system design in an effort to optimize learning for students based on cognitive development of children.

On 29th July 2020, the cabinet approved a new National Education Policy with an aim to introduce several changes to the existing Indian education system.⁶

The NEP 2020 is the first new education policy to be introduced in India in the 21st century and prominence of this new policy is that it redefines the education system on several trajectories enabling easy access and

³ <https://www.researchgate.net/publication/345100384> DOI: 10.5281/zenodo.4159546

⁴ <https://www.researchgate.net/publication/345100384> DOI: 10.5281/zenodo.4159546

⁵ https://www.education.gov.in/sites/upload_files/mhrd/files/document-reports/NPE86-mod92.pdf

⁶ <https://www.researchgate.net/publication/345100384> DOI: 10.5281/zenodo.4159546

participation of students, multidisciplinary courses, system efficiency & governance, and facilities of research and development.⁷

Impact on Legal Education

Legal education in India is primarily imparted by 3 kinds of institutions

1. National Law Universities
2. State and Central Universities
3. Private Universities

They offer either a 3-year law program or a 5-year integrated law program.

The NEP document states – *‘It (legal education) must be 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. The curricula for legal studies must reflect socio-cultural contexts along with, in an evidencebased manner, the history of legal thinking, principles of justice, the practice of jurisprudence, and other related content appropriately and adequately.’*⁸

Inclusion of Ethics and Constitutional Values

Ethics, morality, and principles are based on legal education. Morality, justice, and principles are some of the most significant values in the life of any law student. In traditional legal education, emphasis has been placed on maintaining the importance of justice in a format. But the gravity for such values has been depreciating with the changing time and change in the legal profession.

We have several cases of immoral, unethical professional behavior in the recent past. All these offences arise from the vacuum created by the lack of ethical and moral values in the profession, such as contempt of court. In the case of legal work, the lack of inclusion of ethical principles in legal education may be one of the key reasons for losing the integrity of the profession. There is a famous saying that education moulds the future of that profession. The current legal education system, however, emphasized access to education for all, but ignored the quality assurance aspect by inscribing ethical and moral values.¹⁰

Thus the policy envisages curriculum designed on the basis of constitutional values.

Multilingual Education

The Indian Constitution of India in the eighth schedule includes the recognition of 22 languages¹¹. India’s multilingual existence provides the country with a distinctive character. NEP 2020 encourages multilingual

⁷ <https://www.highereducationdigest.com/impact-of-the-national-education-policy-on-legal-education-challenges-in-implementation>

⁸ https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf¹⁰

https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf¹¹

Articles 344(1) and 351 Constitution of India.

education and suggests that education in English and the language of the state in which the law school is located should be considered by the state institutions providing legal education.⁹

It has been speculated that by ensuring the ease of legal education at the comfort of law students, it will reform the education sector. It should be noted, witnessing the response to this initiative, that it will help to reduce the delay in legal outcomes due to the need for translation.

Globally Competitive Legal Education and Quality Assessment

The policy ensures the inclusion of global education outreach in the education sector, which is a positive step towards India's international recognition. The proposal for the establishment of a national assessment center, the PARAKH (Performance Assessment, Review and Analysis of Knowledge for Holistic Development), as a standard-setting body within the Ministry of Education indicates that the Government is keen to regularly monitor the education system. The set-up would assist states to ensure standardized assessments of quality which would help survive Indian legal education on global platform.¹⁰

Curriculum to Reflect Socio-Cultural Context

The NEP elaborates upon curriculum to include socio-cultural contexts in the following words – *'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" elucidated 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.'*¹¹

Looking at history and culture for understanding law is not new. Historical context has been jurisprudentially recognized as an important aspect of legal theory by scholars such as Savigny and Henry Maine. While Savigny believed in the concept of *Volksgeist* (akin to a national spirit), which emphasized that law is found and not made, and it cannot be separated from its people and transplanted onto others; Maine's approach was more comparative in nature and he also acknowledged the role played by judges and jurists in developing law.

While culture and tradition of a place are important for developing its legal principles, it needs to be taken into account that cultures, traditions and the society evolves.

Thus the curricula for legal studies must reflect socio-cultural contexts along with, in an evidence-based manner, the history of legal thinking, principles of justice, the practice of jurisprudence, and other related content appropriately and adequately.

Multiple Entry and Exit Options

Though not for Legal Institutions specifically, the NEP suggests that a university must offer all types of degree programs and multiple entry and exit options. For universities, which run a five-year integrated program without a provision for exit, this implies comprehensive restructuring of the curriculum. A three-year postgraduate law program (LL.B) teaches only subjects from law whereas, in the integrated program, the first

⁹ https://mpr.ub.uni-muenchen.de/102549/1/MPRA_paper_102549.pdf

¹⁰ https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf

¹¹ https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf

two years mostly cover non-law subjects. So, there are questions about what qualification a student choosing to exit without completing the full course will leave with, whether they can be eligible for even a certificate or diploma in law without having studied any. At present, BCI regulations allow only those with law degrees to practice as lawyers.

Faculty Development

The most important factor in the success of higher education institutions is the quality and engagement of its faculty. The policy takes into consideration the faculty recruitment as well as training and professional development. Acknowledging the criticality of faculty in achieving the goals of higher education, various initiatives have been introduced in the past several years to systemize recruitment and career progression, and to ensure equitable representation from various groups in the hiring of faculty.

In-service continuous professional development for college and university teachers will continue through the existing institutional arrangements and ongoing initiatives and these will be strengthened and substantially expanded to meet the needs to enriched teaching learning processes for quality education. Using technology platforms such as SWAYAM /DIKSHA for online training of the teachers shall be encouraged so that standardized training programmes can be administered to large number of teachers within a short span of time.¹²

Considering Law faculty specifically, though policy remains silent on this point, legal education reforms are also required in encouraging law teachers to engage in 'practice'. A legal practice today, is significantly wider than mere court practice. Engaging in law practice, research, training would encourage teachers to teach theoretical concepts as they play out in the practical field.¹³ This can be part and parcel of in service professional development.

Digital and Online Education

The Digital India Campaign is helping to transform the entire nation into a digitally empowered society and knowledge economy. While education will play a critical role in this transformation, technology itself will play an important role in the improvement of educational processes and outcomes; thus, the relationship between technology and education at all levels is bidirectional.¹⁴

The NEP, while continuing to focus on a traditional learning model, pushes for online, open and distance learning as well which is applicable to all higher educational institutions.

Opportunities and Challenges

The NEP 2020 has threefold implications on legal education.

One, it discourages the practice of stand-alone institutes and states that no new stand-alone institutes shall be permitted unless special circumstances arise. A multi-disciplinary institute could provide law students with the opportunity to interact with students and scholars from different fields and thus develop a more varied understanding of law. But, how far the idea is practically implementable, is to be seen since there is lack of physical space and financial support at times.

¹² https://niepid.nic.in/nep_2020.pdf

¹³ <http://nlsipub.ac.in/legal-education-and-national-education-policy-2020/>

¹⁴ <https://shikshan.org/nep-2020/technology-integration/>

The second recommendation is regarding bilingual teaching in state law universities. While the idea of promoting bilingual learning in law universities is commendable, it nevertheless has certain lacunae. As envisaged in the NEP, the methodology of appointing bi-lingual teachers based on the regional language of the place could help translating legal materials for the purpose of students familiar with the regional language and also for higher courts of law which function mostly in English. However, it solves the problem of language barrier for students only to a limited extent. While it can certainly help a student who is studying at state university situated in his/her own region, it fails to take into account people who could be taking admission in different states.¹⁵ Also, de-emphasizing English as against regional languages is not the solution for legal education. To address this issue, it is necessary not merely to introduce bilingual education throughout, but to also start extra remedial courses/classes for English as it is the primary language used in the legal field.¹⁶

The most concerning issue pertains to the third recommendation in the NEP which is regarding affirmation of the Constitutional ethos in legal education. The words like national reconstruction and socio-cultural contexts that demand further exploration. NEP does not throw any light on the exact meaning of national reconstruction; the term socio-cultural context does find explanation however, ignores all other aspects of law and tends to over-emphasize on culture, tradition, and mythology. The usage of the term 'has to fall back upon culture and traditions' cannot be ignored.¹⁷ While culture and tradition of a place are important for developing its legal principles, it needs to be taken into account that cultures, traditions and the society evolves. Also, culture and traditions cannot be presumed to be a homogenous concept and needs to be appreciated in their diversity.¹⁸ Thus there is dire need to have multidisciplinary and analytical approach while designing law curricula which would be at par with present societal needs and provides holistic education to law student.

Apart from abovementioned threefold reforms, the NEP 2020 lays emphasis on leveraging the advantage of technology in making the students future-ready. Online learning, digital infrastructure and online teaching tools will increase the accessibility of law universities to a wider audience. The law universities should overcome the digital divide and adopt the best technology to cater to the needs of students. Innovations are required in legal education wherein law universities can imbibe the important aspects regarding digital and online as well as distance education to bring about a constructive change in pedagogy, one that is aligned with the needs of the changing times to emerge as Centre of Excellence. But, developing digital infrastructure such as digital classrooms, remote expertise-driven teaching models, AR/VR tools to bridge gaps in physical teaching and laboratory infrastructure can pose a great challenge because of lack of fundamental digital infrastructure and accessibility issues across the country.¹⁹

Education being in the concurrent list, this policy needs co-operation from the states for acceptable execution. The NEP ignores the balance of power between the Centre and States while making the decisions. Cooperation between the center and states is a must to achieve the success of the policy is also a major challenge as many states are speaking against the policy and have alleged that the Centre has attempted to "centralize" the education and tried to bypass the states thus making it difficult to implement the policy in spirit in real life.²⁰

¹⁵ <https://thedailyguardian.com/hits-and-misses-of-nep-2020-and-its-impact-on-legal-education/>

¹⁶ <https://www.ifheindia.org/Comments-on-NEP-August-3-2020.pdf>

¹⁷ https://niepid.nic.in/nep_2020.pdf

¹⁸ <https://countercurrents.org/>

¹⁹ <http://nlspub.ac.in/legal-education-and-national-education-policy-2020/>

²⁰ <http://southasiajournal.net/india-nep-2020-assessing-access-to-higher-education/>

Conclusion

The National Education Policy 2020 provides a framework for the transformation and reinvigoration of the education system in order to respond to the requirements of fast-changing, knowledge-based societies while taking into account the diversity of the Indian people, their traditions, cultures, and languages. An education system built on the premises of quality and equity is considered central to sustainable development, achieving success in the emerging knowledge economy and society, for socio-economic mobility, and for building an equitable, just and humane society. The policy aims to revamp the higher education system, create world class multidisciplinary higher education institutions across the country.

Further the 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 recognizes 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 visualized 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, but the NEP 2020 fails to appreciate resource mobilization in this regard.

In fact, a new approach to legal education, which is the need of the hour, may be adopted to develop market oriented specialized courses and adopting new techniques, technologies and strategies for invigorating teaching-learning process.

It is pertinent to mention that the National Educational Policy possesses some of the desired reforms for the sector. It is the complete restructuring of the higher education system through the introduction of a multidisciplinary and interdisciplinary programs. With respect to legal education, specifically, the provisions in the policy give an overview that the policy has focused on maintaining and retaining the esteem of legal education with long term goals.

It is true that legal education needed this reform for the longest time, and now with emergence of progressive policy, the proper implementation should be emphasized which requires a strong political will. Hence both the Central and State Government have to be more responsible to implement the policy from the grass root level. We all dream for our developed nation, but we must keep in mind-

“Desire is only a thought, an impulse. It is nebulous and ephemeral. It is abstract and of no value, until it has been transformed into its physical counterpart.” –Napoleon Hill

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