

# STUDY OF NEP 2020, CONSTITUTIONAL MANDATE AND RIGHTS OF TEACHERS

**Dr. Rekha Pahuja**

Assistant Professor  
S.S. Maniyar Law College, Jalgaon  
Affiliated to  
North Maharashtra University, Jalgaon  
Contact details  
Mob no. 8554040542  
Email id: rekhapahuja29@gmail.com

---

Education is the most powerful weapon  
which you can use to change the world.

- Nelson Mandela

## Abstract

*The National education Policy, 2020 in India comes 34 years after the previous policy announced in 1986 and revised in 1992. It took six years of work and consultations with thousands of educators, policymakers, and members of civil society. It was truly a democratic effort and is highly aspirational, claiming to “have an education system by 2040 that is second to none, with equitable access to the highest quality education for all learners, regardless of social and economic background.” The NEP’s chief purpose is to reform the education system and bridge the gap between current learning outcomes and those desired. Recognizing the need to keep up with a rapidly changing world and knowledge landscape, the NEP 2020 describes the purpose of the education system is to develop good human beings capable of rational thought and action, possessing compassion and empathy, courage and resilience, scientific temper and creative imagination, with sound ethical moorings and values. It aims at producing engaged, productive, and contributing citizens for building an equitable, inclusive and plural society as envisaged by our constitution.” The Present paper deals with the claimed highlights of the NEP, 2020, its brief analysis, Constitutional mandate and legislative Framework, and the protest made by few teachers as to how NEP, if implemented may affect their rights adversely with concluding remarks.*

**Keywords:** Constitutional mandate, legislative Framework. Rights of teachers, Analysis of NEP.

## INTRODUCTION

The National Education Policy, 2020 has been projected and applauded as the government of India’s resolve to expand and vitalize equitable quality public education. The document emphasizes interventions in early childhood education; foundational literacy and numeracy; rearrangement of curricular and pedagogical structure of school education; reorganization of teacher education; and a new institutional architecture for higher education.

On close scrutiny, the policy does little to address specific, well-known and endemic problems that plague India’s education system. Most of the proposed interventions appear well meaning. But because they are based on shallow understanding of the ground realities of education in an unequal society, they could suffer deep infirmities in execution. Several innovations proposed by NEP 2020 could exacerbate existing educational challenges and perpetuate inequality.

## OBJECTIVES

- [1] To study the historical background of National Education Policy in brief.
- [2] To analyze the main provisions of the Policy.
- [3] To study the Constitutional and Legislative Framework relating to education and analyze the NEP Vs. Teachers right
- [4] To conclude with proper recommendations.

## RESEARCH METHODOLOGY

The researcher has adopted doctrinal method for the purpose of collection of data. It includes books, articles,

various law journals, newspapers and internet. The material was collected and arranged in systematic order.

## BACKGROUND OF THE POLICY

An NEP is a comprehensive framework to guide the development of education in the country. The need for a policy was first felt in 1964 when Congress MP Siddheshwar Prasad criticized the then government for lacking a vision and philosophy for education. The same year, a 17-member Education Commission, headed by then UGC Chairperson D S Kothari, was constituted to draft a national and coordinated policy on education. Based on the suggestions of this Commission, Parliament passed the first education policy in 1968. A new NEP usually comes along every few decades. India has had three to date. The first came in 1968 and the second in 1986, under Indira Gandhi and Rajiv Gandhi respectively; the NEP of 1986 was revised in 1992 when P V Narasimha Rao was Prime Minister.<sup>1</sup> The implementation of previous policies on education has focused largely on issues of access and equity. A major development since the last Policy of 1986/92 has been the Right of Children to Free and Compulsory Education Act 2009 which laid down legal underpinnings for achieving universal elementary education.<sup>2</sup>

## HIGHLIGHTS OF THE POLICY<sup>3</sup>:

- It provides for recognizing, identifying, and fostering the unique capabilities of each student, by sensitizing teachers as well as parents to promote each student's holistic development in both academic and non-academic spheres.
- It accords the highest priority for achieving Foundational Literacy and Numeracy by all students by Grade 3.
- It ensures flexibility to the learners to choose their learning trajectories and programmes, and thereby choose their own paths in life according to their talents and interests;
- It has done way with the hard separations between arts and sciences, between curricular and extra-curricular activities, between vocational and academic streams, etc. in order to eliminate harmful hierarchies among, and silos between different areas of learning.
- It also provides for multidisciplinary and a holistic approach towards education across the sciences, social sciences, arts, humanities, and sports for a multidisciplinary world in order to ensure the unity and integrity of all knowledge;
- It emphasizes on conceptual understanding rather than rote learning and learning-for-exams.;
- It also provides for creativity and critical thinking to encourage logical decision-making and innovation;
- It encourages ethics and human & Constitutional values like empathy, respect for others, cleanliness, courtesy, democratic spirit, spirit of service, respect for public property, scientific temper, liberty, responsibility, pluralism, equality, and justice;
- It also promotes multilingualism and the power of language in teaching and learning;
- life skills such as communication, cooperation, teamwork, and resilience;
- It focuses on regular formative assessment for learning rather than the summative assessment that encourages today's 'coaching culture';
- It provides for extensive use of technology in teaching and learning, removing language barriers, increasing access for Divyang students, and educational planning and management;
- It also respects for diversity and respect for the local context in all curriculum, pedagogy, and policy, always keeping in mind that education is a concurrent subject;
- It ensures full equity and inclusion as the cornerstone of all educational decisions to ensure that all students are able to thrive in the education system;
- It also ensures synergy in curriculum across all levels of education from early childhood care and education to school education to higher education;
- It considers teachers and faculty as the heart of the learning process – their recruitment, continuous professional development, positive working environments and service conditions;
- The policy also seeks to establish a 'light but tight' regulatory framework to ensure integrity, transparency, and resource efficiency of the educational system through audit and public disclosure while encouraging

<sup>1</sup> <https://indianexpress.com/article/explained/reading-new-education-policy-india-schools-colleges-6531603/>

<sup>2</sup> [https://www.mhrd.gov.in/sites/upload\\_files/mhrd/files/NEP\\_Final\\_English\\_0.pdf](https://www.mhrd.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf)

<sup>3</sup> [https://www.ugc.ac.in/pdfnews/5294663\\_Salient-Featuresofnep-Eng-merged.pdf](https://www.ugc.ac.in/pdfnews/5294663_Salient-Featuresofnep-Eng-merged.pdf)

- innovation and out-of-the-box ideas through autonomy, good governance, and empowerment;
- It ensures outstanding research as a co requisite for outstanding education and development;
  - It ensures continuous review of progress based on sustained research and regular assessment by educational experts;

## BRIEF ANALYSIS

Some of the major aspects considered under the policy are as follows:

1. The policy seeks to restructure school curricula and pedagogy in a new '5+3+3+4' design, so that school education can be made relevant to the needs and interests of learners at different developmental stages – a 'Foundational Stage' (five years), a 'Preparatory Stage' (three years), a 'Middle Stage' (three years) and the 'High Stage' (four years, covering grades nine, 10, 11 and 12).
2. It aims to achieve 'universal foundational literacy and numeracy' in primary schools by 2025. For this, the Ministry of Human Resource Development shall set up a National Mission on Foundational Literacy and Numeracy.
3. Public and private schools – except the schools that are managed, aided or controlled, by the central government – will be assessed and accredited on the same criteria, benchmarks, and processes.
4. The Gross Enrolment Ratio from preschool to secondary education should be 100 per cent by 2030. (GER is defined as the ratio of the total enrolment in education – regardless of age – to the official population in a given school year, expressed as percentage.) The policy states that universal participation in schools shall be achieved by tracking students and their learning levels to ensure they are enrolled and attending school, and have suitable opportunities to re-join or catch up at school in case they have dropped out or fallen behind.
5. The medium of expression until at least grade five – but preferably till grade eight or beyond – shall be the student's mother tongue, or the local or regional language. The 'three-language formula' will continue to be implemented in schools, where two of the three languages shall be native to India.
6. The policy seeks to standardize the school curriculum for Indian Sign Language across the country.
7. The government of India shall constitute a 'Gender-Inclusion Fund' to provide equitable and quality education to all girls and transgender students. States shall use this fund to implement the central government's policies for assisting female and transgender students, such as provisions for toilets and sanitation, conditional cash transfers and bicycles. The fund will enable states to support 'community-based' interventions.
8. The policy suggests establishing 'school complexes' consisting of a secondary school and other schools offering lower grades of education – including anganwadi centres – in a radius of 5 to 10 kilometers. Such a complex will have "greater resource efficiency and more effective functioning, coordination, leadership, governance, and management of schools in a cluster."
9. All education institutions shall be held to similar standards of audit and disclosure as a 'not-for-profit' entity, says this policy. If the institution generates a surplus, it shall be reinvested in the educational sector.
10. The policy says that all 'higher education institutions' (HEIs) shall aim to be multidisciplinary by 2040. By 2030, there shall be at least one multidisciplinary HEI in or near every district. The policy aims for the Gross Enrolment Ratio in higher education to increase to 50 per cent by 2035 from 26.3 per cent in 2018.
11. HEIs shall have the flexibility to offer Master's programmes of two years for those who have completed a three-year undergraduate programme, of one year for students who have completed a four-year undergraduate programme, or five-year integrated Bachelor's and Master's programmes.
12. M.Phil. programmes shall be discontinued.
13. The policy says that 'high performing' Indian universities shall be encouraged to set up campuses in other countries. Similarly, selected universities – such as those from among the top 100 universities in the world – shall be encouraged to operate in India.
14. A National Research Foundation shall be established to facilitate "merit-based but equitable" peer-reviewed research funding.

15. The policy says that the centre and states shall work together to increase public investment in education to 6 per cent of the gross domestic product, from the current 4.43 per cent.<sup>4</sup>

#### **Constitutional and Legislative Framework:**

Part IV of Indian Constitution, Article 45 and Article 39 (f) of Directive Principles of State Policy (DPSP), has a provision for state-funded as well as equitable and accessible education.

The 42<sup>nd</sup> Amendment to the Constitution in 1976 moved education from the State to the Concurrent List. The education policies by the Central government provide a broad direction and state governments are expected to follow it. But it is not mandatory, for instance Tamil Nadu does not follow the three-language formula prescribed by the first education policy in 1968. However, The 86<sup>th</sup> Amendment in 2002 made education an enforceable right under Article 21-A.

#### **Legislative Framework:**

Right To Education (RTE) Act, 2009 aims to provide primary education to all children aged 6 to 14 years and enforces education as a Fundamental Right. It also mandates 25% reservation for disadvantaged sections of the society where disadvantaged groups

#### **NEP 2020 Vis a Vis Constitution of India**

India's long-awaited national policy on education rides on many expectations, millions of dreams of its children, hopes and aspirations of its young people, waiting for the promises made to them by none less than the country's constitution.

For sixty years, despite all its schemes to 'universalize access', the country only 'endeavored' to provide something it called education, reluctantly doling out poorly resourced, uninteresting and often inaccessible schools to the majority, and mostly dysfunctional colleges for the few who could resist being pushed out much earlier.

With effect from April 1, 2010, for children between the ages of 6 and 14, the constitution made it a fundamental right, no longer left hanging as a promise, at the behest of the state. The Right to Education Act stated that "every child of the age six to 14 years shall have a right to free and compulsory education in a neighbourhood school till completion of elementary education" (clause 3.1).

Moreover, the Act laid down that 'compulsory' implied it was the obligation of the state to ensure admission, attendance and completion of good quality education, and ensure that a child belonging to a weaker section or disadvantaged group is not discriminated against and prevented from pursuing and completing elementary education on any grounds (clause 8).

In addition, it laid down in detail the quality of education every child was entitled to, including building up the child's knowledge, potentiality and talent; learning through activities, discovery and exploration in a child friendly manner; making the child free of fear, trauma and anxiety and helping the child express views freely (clause 29). This right for India's children was the path to the 'heaven of freedom' Tagore was praying for as early as 1901 (he later translated the Bengali poem into English, published in Geetanjali).

The National Education Policy 2020, unfortunately, does not seem to even acknowledge what the constitution mandates for all its children. It comes during an unprecedented pandemic, with over fifty thousand new cases being recorded each day, millions displaced after loss of livelihoods, children locked out of schools, deprived of their mid-day meals, even dying of exhaustion while walking or being dragged hundreds of kilometres back to their villages.<sup>5</sup>

Unlike other policy documents that elaborate on a transformative vision of social justice as embedded in the constitution, this document hastily states its intention (p6): "An education system rooted in (the) Indian ethos that contributes directly to transforming India, that is Bharat, sustainably into a vibrant knowledge society, by providing high quality education to all, and thereby making India a global knowledge superpower" ....with 'truly global citizens'.

The policy begins by stating upfront that the 'lofty goals' of the 2030 Agenda of Sustainable Development adopted by India in 2015, especially Goal 4 (SDG4) to "ensure inclusive and equitable quality education for all", will require the entire education system to be reconfigured to support and foster learning (p 4). However, the reconfiguring threatens to lead to a deeply stratified and exclusive design, which in fact, even goes against the existing constitutional mandate of the RTE, with no commitment to extend it.

The constitution and its values are invariably prefaced, their import in a way effaced, with the terms such as fundamental duties or ethical and human values, so that the more mundane 'respect for public property' can precede equality or justice. In the long list of the fundamental principles that are meant to guide NEP, one of the bullet points says it all:

<sup>4</sup> <https://ruralindiaonline.org/library/resource/national-education-policy>

2020/?gclid=EAIaIQobChMIueW1pIOT7AIVwRErCh1mGQAOEAAAYASAAEgJwwPD\_BwE

<sup>5</sup> <https://thewire.in/education/national-education-national-education-policy-right-to-education>

“ethics and human and constitutional values like empathy, respect for others, cleanliness, courtesy, democratic spirit, spirit of service, respect for public property, scientific temper, liberty, responsibility, pluralism, equality and justice.”

Interestingly, the 60p document ‘for circulation’ says that while students will have the flexibility to choose their curricula, “some subjects and skills must be learned by all to become good, adaptable and productive human beings in a rapidly changing world” (incidentally, many countries adopting a neo-liberal discourse are shifting their aims of education from those that call for ‘transforming society’ to adapting to a fast-changing world).

An interminably long list of ‘subjects and skills’ breathlessly flows out in one sentence – scientific temper and evidence based thinking; creativity and innovativeness; sense of aesthetics and art, knowledge and practice of human and constitutional values (such as patriotism, sacrifice, non-violence, truth, honesty, peace, righteous conduct, forgiveness, tolerance, mercy, sympathy, helpfulness, cleanliness, courtesy, pluralism, responsibility, justice, liberty, equality and fraternity); etc. However, in the final document, the bracketed twenty values are incised from this section.

### NEP 2020 vis a vis Teachers Rights:

The State Leader of Pathshala Parirakshna Vedika, Andhra Pradesh (Forum for school protection) said that NEP was being implemented in an undemocratic way without taking into confidence the Stakeholders. The merger of Anganwadis and classes 3 to 5 in the primary schools with high schools will not augur well for the students, specially girl students and those who are in the rural areas because many of them would drop out of school due to increased distance between their homes and schools.

They contended that though the said policy claims that it would bridge all the gaps may it be social, economic and political but however some components in the policy would widen the gap instead of bridging the same. Further The Education Minister Botcha Satyanarayan officially announced that not a single school would be closed down which seems a incorrect as the policies adopted by the government are bound to result in closure of thousands of schools. Even the schools merger policy if implemented would drastically reduce the numbers of the existing teachers’ posts. The quality of education would also suffer thereby when such number is reduced.<sup>6</sup>

Criticizing the new education policy, student bodies said that the policy encouraged “radical privatization” and ‘informalization’ of education.<sup>7</sup>

The Delhi University Teachers Association (DUTA) has said the NEP will “dismember” universities by transferring the power over to a board of governors which is to enjoy all powers hitherto vested in the governing authorities of colleges and universities as well as the UGC and other regulating bodies.

Nandita Narain, former Delhi University Teachers’ Association (DUTA) president, said “This farce of ‘graded autonomy’, whereby our autonomy is being snatched away for the market and digitisation through MOOCs (Massive Open Online Courses) and Swayam (Study Webs of Active-Learning for Young Aspiring Mind), all are aimed toward increasing inequality and making us slaves of the corporate”

Ajoy Ashirwad Mahaprashasta, a senior journalist with The Wire, highlighted that the defenders of the policy are those who have nothing to do with higher education, while the critics constitute educationalists and academicians who have dedicated their lives to the cause of education. He added saying “The thrust of NEP is on vocational training rather than quality education. Education is a concurrent subject. The NEP perfectly fits with the Bharatiya Janata Party’s (BJP) agenda of centralisation with its attack on federalism and regional diversity”.<sup>8</sup>

Maushumi Basu, Jawaharlal Nehru University Teachers’ Association (JNUTA) president, said that The NEP promotes loan model of education which shall lead to massive fee hikes... The crisis of capitalism is leading the government and corporations to destroy our education system. Students and teachers must unite to fight this onslaught”.<sup>9</sup>

## CONCLUSION

Thus, it can be said that even though New Education Policy aims to facilitate an inclusive, participatory and holistic approach, which takes into consideration field experiences, empirical research, stakeholder feedback, as well as lessons learned from best practices but in spite of it seems to be a progressive shift towards a more scientific approach to education yet a the feedbacks from all the stakeholders right from Teachers, Students and

<sup>6</sup> <https://www.thehindu.com/news/national/andhra-pradesh/andhra-pradesh-teachers-oppose-nep-and-reforms-being-introduced-in-state/article65620593.ece>

<sup>7</sup> <https://www.ndtv.com/education/nep-2020-student-teacher-bodies-call-new-education-policy-anti-democratic>

<sup>8</sup> <https://thewire.in/education/over-150-students-teachers-join-50-day-nationwide-campaign-against-nep-call-for-rollback>

<sup>9</sup> Ibid note 8

all others who are directly going to be affected shall be taken into consideration before it being finally implementing which will help in avoiding all the subsequent clashes and may secure fruitful results. With this, let's hope the Policy to secure the Constitutional and Legal Mandates in true spirit.

## REFERENCES

- [1] [https://www.researchgate.net/publication/335527419\\_A\\_Critical\\_Review\\_Draft\\_NEP\\_2019](https://www.researchgate.net/publication/335527419_A_Critical_Review_Draft_NEP_2019)
- [2] <https://indianexpress.com/article/explained/reading-new-education-policy-india-schools-colleges-6531603/>
- [3] <https://thewire.in/education/national-education-national-education-policy-right-to-education>
- [4] <https://www.thehindu.com/news/national/andhra-pradesh/andhra-pradesh-teachers-oppose-nep-and-reforms-being-introduced-in-state/article65620593.ece>
- [5] <https://www.drishtiiias.com/daily-updates/daily-news-analysis/national-education-policy-2020>
- [6] <https://www.brookings.edu/blog/education-plus-development/2020/10/02/indias-national-education-policy-2020-a-reformist-step-forward/>
- [7] <https://www.brookings.edu/blog/education-plus-development/2020/10/02/indias-national-education-policy-2020-a-reformist-step-forward/>
- [8] <https://scroll.in/article/970548/is-the-national-education-policy-2020-designed-to-deliver-equitable-quality-public-education>
- [9] [https://www.mhrd.gov.in/sites/upload\\_files/mhrd/files/NEP\\_Final\\_English\\_0.pdf](https://www.mhrd.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf)
- [10] [https://www.ugc.ac.in/pdfnews/5294663\\_Salient-Featuresofnep-Eng-merged.pdf](https://www.ugc.ac.in/pdfnews/5294663_Salient-Featuresofnep-Eng-merged.pdf)
- [11] [https://ruralindiaonline.org/library/resource/national-education-policy-2020/?gclid=EAIaIQobChMIueW1pIOT7AIVwRErCh1mGQAoEAAYASAAEgJwwPD\\_BwE](https://ruralindiaonline.org/library/resource/national-education-policy-2020/?gclid=EAIaIQobChMIueW1pIOT7AIVwRErCh1mGQAoEAAYASAAEgJwwPD_BwE)
- [12] <https://mattersindia.com/2020/08/national-education-policy-a-critical-analysis/>
- [13] <https://thewire.in/education/nep-higher-education-kasturirangan-education-ministry>
- [14] <https://timesofindia.indiatimes.com/home/education/news/multidisciplinary-focus-of-nep-2020-transforming-the-indian-higher-education-system/articleshow/77501207.cms>