

BOOK REVIEW

N.R. Madhava Menon, Education and Public Health- Legislative Initiatives in Fifty Years of the Republic (1950-2000), forwarded by Subhash C. Kashyap, Universal Law Publishing Co. Pvt. Ltd, New Delhi, India, 2013 Edition, ISBN : 978-93-5035-337-6, Price- Rs. 325.

N.R. Madhava Menon is an Indian legal educator, considered by many as the father of modern legal education in India. Prof. Menon foreword his latest treatise on “Education and Public Health – Legislative Initiatives in the First Fifty Years of the Republic”. His present work is the result of his intensive research in the depths of the primary sources like the Constituent Assembly Debates, Proceedings of the Houses of Parliament, Judicial pronouncements by Courts and much else from the vast field of secondary sources. Several reports of Committees of Experts and independent perused and covered.

Prof. Menon gave priority to public health and primary education by making it part of State Policy, fundamental in making laws and in governance of the country. In fact, primary education was supposed to be compulsorily given to every child within ten years of commencement of the Constitution! For a variety of reasons, the attention given by Parliament and State legislatures to basic needs of people in the initial years of the Republic has not been adequate to the tasks involved. Today, however, they are issues in the priority list of governments both at the Centre and in the States. Education has become part of guaranteed fundamental right under the Constitution and Parliament has legislated the Right to Education Act to implement the guaranteed right. Health is in the process of becoming a fundamental right as well. This Study looks at the initiatives in Parliament between 1950 and 2000 to act upon the Directive Principles relating to education and health.

On the main theme of the study, Prof. Menon aptly puts the focus on the close relationship between economic and political democracy and socio-economic justice propounded under the Directives Principles and good citizen-friendly governance norms based on the fundamental human rights principles of equality, non-discrimination and inclusiveness.

The present book covers all the important aspects of education and public health and freedoms. The author has made a wide study regarding implementation of basic rights. The whole work divided into VI Chapters.

The Chapter 1 is “Introduction”. It introduces the subject. Here discussion has been made regarding the development of education and

public health in Indian Law. The author has discussed in detail critical and not perhaps too complimentary of Parliament's performance in implementation of rights of education and health. The author had tried to study the picture of socio-economic transformation and relative role and responsibility of the two levels of government in legislating on Directive Principles.

The Chapter 2 author has explored the constitutional mandate to the State towards achieving the socio-economic transformation envisaged by the Preamble and the Directive Principles of State Policy and the role assigned to Parliament in it. The author had undertaken extensive survey of expert committee reports, judicial pronouncements and independent commentaries on the concepts, policies and practices in relation to Health and Education mainly to appraise the reader of the nature and scope of the two basic rights and the tasks before Parliament to articulate the rights and duties and provide the delivery mechanisms for implementing those rights. The author had presented the Constitution being a "living organism" with a body and a soul got its body parts amputated to cope with changes in society through a series of amendments and retained its soul which got permanency by way of the "basic structure doctrine" propounded by the Supreme Court. The author of course, envisaged that right to health and right to education have also been addressed during the period by the United Nations at its various bodies which resulted in a number of treaties, declarations and conventions. India has been a party to these international agreements and has ratified them with or without reservations. A whole body of international jurisprudence thus became part of domestic law which enlarged the scope of health and education as part of guaranteed individual rights of citizens.

The Chapter 3 the author has made a detail study regarding the Parliament's performance in implementing the Directive Principles on Health and Education during the period under review. The author has thanked to the pre-existing laws adopted during the colonial period, at least in parts of the country the basic infrastructure for healthcare and education was in place. Parliament was pre-occupied in the early period after Independence with land reform policies which got it into a running battle with judiciary at the end of which citizens lost the right to property as a fundamental right guaranteed under Part III of the Constitution! The few welfare legislations which got adopted during the period were mostly in respect of labour, equality through reservation in education and public employment and infrastructure development. Even the Directive to provide every child with free, compulsory primary education within ten years from the commencement of the Constitution did not receive the attention it deserved from Parliament. Whatever the explanations for inaction, the fact remains that in the initial two or three decades of Parliaments' functioning what could have been achieved on the education and health fronts was not to

be. The nation is now paying a very heavy price on account of illiteracy and ill-health of a large majority of people. This is not to belittle the work done by Parliament on other fronts. Democracy was sustained and strengthened, unity and integrity was maintained; security defended even when the country was invaded by two of its neighbours; and the process of planned economic development continued uninterrupted. A powerful bureaucracy at the Centre decided the priorities and influenced the policy-making process to the disadvantage of the marginalised and unorganised sections of the public. The social revolution was delayed and distorted and it was the turn of the judiciary in the next three decades to lead a Rights revolution through judicial activism and Public Interest Litigation.

The Chapter 4 the author has made wide discussion about productive in advancing the socio-economic agenda both by Parliament and the Government. A number of Centrally-sponsored schemes and a variety of programmes under Five-Years Plans got introduced which included beneficial activities to improve access to health and education. The responsibilities of Central and State Governments in implementing Directive Principles got articulated and citizens started demanding benefits through constitutional courts as part of basic human rights.

The Chapter 5 looks at the changing paradigm of State responsibility vis-à-vis social sectors in the context of economic liberalisation and globalisation. The turn of the century did bring about revolutionary changes not only on the economic front but also in social and cultural fronts creating new awareness of the importance of social capital in growth and development of a nation. Changes in the polity and the economy pushed the welfare agenda in the national mind and a number of significant measures on health and education emerged either as policies or programmes from the Central and State Governments.

The Chapter 6 the author has devoted to take a prognosis on the status of education and health in the new millennium based on the trends in legislative and executive activity of national and state governments. The author had a brief analysis at how some other federal countries, developing and developed, handled health and education was undertaken to get insights on management of these complex items in terms of human rights as well as public policy choices. The way equality jurisprudence developed in different jurisdictions suggests models of constitutional governance of social sectors. It is the challenge for the leadership to find a new strategy for expeditiously and effectively implementing the obligations set by the Directive Principles of State Policy particularly in respect of education and health.

Prof. Menon in his study reaches the sad but inescapable conclusion that the performance of our Parliament in the field of providing good healthcare and education to all during the half century (1950-2000) has been

on the whole dismal. It is interesting that in the early decades, the Judiciary also tilted towards the primacy of the fundamental rights of the individual including property rights as against the needs of socio-economic transformation and of justice envisaged by article 39 and other directives. But, now it gives a good feeling to be told that in recent decades, a little more attention has been paid to health and education concerns of the common people.

It is heartening to give a note about Professor N. R. Madhava Menon that, he is credited with the successful adoption of the Five-Year Integrated LL.B. course and the establishment of the National Law School movement, putting Indian legal education comparable to the best of its kind elsewhere. He is currently engaged in a country-wide movement for enhancing capacities of the legal profession through organised programmes of continuing education at every level of legal practice. Among other activities of Prof. Menon are training law teachers in clinical methods of instruction, educating youth on rule of law and responsible citizenship, working in committees appointed for reforms in higher education at the Central and State levels.

Lastly, it is pertinent to mention that, we all will remain grateful for his substantial contribution to the world of legal studies and training, and inspire further similar studies on legal education. The book will help in generating a fresh debate and demand of much needed education and health, and also sensitize Central and State Government administration towards their social duties.

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