CHAPTER - I
PROLOGUE

Statement of Problem

The process of education begins very early in life and should as a matter of fact continue throughout the life. The method of process may be varied throughout the world, yet aims at only, one thing to make the human child (half Animal) into cultural and useful member of the society and in the process equip him with an instrument of high or low order, depending on individual talent, to develop his personality into something worth of pride and respect to himself and those around him. In India, which has produced a civilization worth a name and with it a galaxy of great men in all walks of life there is enough experience and expertise to deliver this, and yet even now the problem of how to rear up our younger generation is troubling the country most.

The learning or education has always been the highest virtue and the greatest acquisition of a person in this land. Education has acquired additional importance as a sine-quo-non for the success of the democracy. Its primacy is apparent in the frequency with which the education is linked with fast over national development. Education is the only instrument which can prepare a sound base for peaceful coexistence for the advancement of society. Education must therefore be made available not in the sense to get one educated but in the sense of providing every facility necessary to get oneself educated. This is a difficult task and requires enormous resources, skilled planning and sincere execution of educational policies. The task becomes most difficult with vastness of the country, the regional disparities, pre-dominance of rural population, living in inaccessible small villages and above all developing economy with limited resources.
Thus an enormous gap exists between the ideal and reality with respect to education, and vast majority of people continue to remain illiterate. Despite the three decades of constitutional mandate for universalization of education, the legislature and Executive has not been able to do even the minimum which the framers expressly directed them to do, is shocking and matter of grave concern and shame. Thus the judiciary has rightly plunged in so far as to remind the state of its constitutional obligations. Yet reality cannot be ignored. The primary or secondary schools in open or tents or in buildings worth the name, without even adequate drinking water facility are not uncommon scene even within the vicinity of Rashtrapati Bhawan. What kind of education can be contemplated for the millions in for flung obscure villages and tribal areas is a matter of serious consideration.

Education is a powerful instrument of national development _social, economic and cultural. The highest priority should, therefore, be accorded to the development of national system of education which will:

- accelerate the transformation of the existing social system into a new one based on the principles of justice, equity, liberty and dignity of Individual enshrined in the Constitution of India.

- provide adequate and equal opportunities to every child and help him to develop his personality to its fullest;

- make the rising generation conscious of the fundamental Unity of the country in the midst of her rich diversity
proud of her cultural heritage and confident of her great future; and

emphasize the science and technology and the cultivation of moral, social and spiritual values.

Newman defined the right type of education as one which help in formation of character and makes one a gentleman and as one who has cultivated intellect, a delicate taste, a candid, equitable dispassionate mind and a noble bearing in the conduct of life.

Since man is both individual and social his right type of education is ultimately useful and fruitful to the society of which he is an integral part. Society and education exist only for each other. While education amplifies society, society in turn, strengthens education. Dr. Kothari maintains that, in the modern world education should explicitly recognise and faster as its two basic aims (i) imparting knowledge and (ii) imparting of a sense of social responsibility and commitment to the community willingness to use knowledge for economic and social betterment. The world today has a stock of knowledge which is unmatched in its extent and power, but there need to be comparable sense of dedication and responsibility to make use of this knowledge for the services of community and mankind. The objective of higher education is to extent the frontiers of knowledge and promotion of its application to the needs of man and society. In determining the objectives of higher education the needs of the nation and aspirations of the people for better living with modern amenities must be borne in mind.
In his Convocation address at Allahabad University 1947, Pandit Nehru, while summing up the basic objectives of the Universities and its role in the national life said:

"A university stands for Humanism, for Tolerance, for reasons for the Adventure of ideas, for the search of truth. It stands for the onward march of human race towards even higher objectives. If our Universities discharge their duties adequately then it is well with the nation and people."

In the present situation in India, which attempts to bring about far reaching economic and social changes, it would be conceded that higher education have to lay much greater stress on development oriented education. But in doing so, care is to be taken that the personality of the learner as a cultured and responsible person of the society is not lost sight of. Thus higher education is to aim at, to make people worthy citizens, to contribute ably and significantly to the objectives of national development by meeting all challenges what so ever. This presupposes well designed higher education system linked up with the national objectives which are able to fulfill the aspiration of people.

The problems of higher education in our country today are deep, varied, puzzling and more non-educational than educational in character. Attempts have been repeatedly made to solve these problems in educational terms but all these attempts have failed primarily because it was assumed that problems were only educational, where as, in actual facts these were fundamentally non educational. This is not to deny the fact that good many problems can be and ought to be solved within the ambit of educational
structure and organization but in solving the problems non-educational factors should also be taken into consideration.8

While in the pre independence era, an assessment of position of higher education was made by Hartog Committee (1929) and thereafter by Sergeant Committee (1944) in free India, it was the Radhakrishnan Commission (1948-49) which made comprehensive and useful survey of the position of higher education suggesting measures of all round development in the areas of higher education so as to meet aspiration of people. The Radhakrishnan Committee attributed three reasons, namely, low standard of teaching, lack of restrictions on students admission to Universities, and lack of interest among students to work. For improving the standard the Recommendations made by the Commission were to, check over crowding in educational institutions, selection of proper teachers by improving their status, introduction of three year degree system and revision of course contents.

During 1947-48 to 1964-65, higher education had expanded considerably, the number of Universities had risen from 19 to 65 and student enrollment to one million mark. The Kothari Commission (1964-66) was thus in a better position to locate the merits and demerits of the entire position, of the higher education. The Commission agreed the standards of education......" compares unfavourably with average standards in other educationally advanced countries. What is worse, the large gap between the standards in our country and those in the advanced countries is widening rapidly. It further observed that the contents and quality are inadequate for our present needs and future requirements. This precisely meant that our courses of studies needed changes and in
certain areas radical changes. To sum up three dimensional problems were brought to surface by the two Commissions, namely,

(a) for better teaching, competent teachers, improved service conditions;

(b) in order to have students with better background with full 12 years of study, before entering the University portals and then to prosecute a compact three years degree course, without any separate entity in the same, and,

(c) pointed attention was drawn to the needs of curbing the rapid growth of enrollment.\textsuperscript{11}

Hardly has any of these problems remained unattended. Due to the initiative of UGC, the service conditions of teachers have improved a good deal. It is presumed therefore that quality of teachers have improved for better teaching. On account of all-round efforts made and the impact of various scheme on the whole, the standard is much better. Prof. Satish Chander\textsuperscript{12} commended that now, "Many of the institutions are producing students who can compete in standards with the best students anywhere in the world-- he added that...."it is due to high quality of Indian scientists, technicians, professional people, administrators etc that India today stands ninth (9nth) amongst the industrial countries of the world\textsuperscript{13}.

**Problems of Overgrowth:**

To take the most obvious fact about the higher education, the student population crossed three million mark in 1970-71 and
it further increased by 1980-81. Problems of over growth stemmed from the unwanted and disproportional growth of enrollment in the Universities since 1947. The country is finding it extremely difficult to educate such large numbers properly and successfully. If the numbers keep on increasing at the present rate in next decade we would have perhaps the largest educational system in the world. The American system of education has began to shrink the size whereas ours is growing rapidly. Should the present rate of expansion continue? Can the country afford to spend so much on higher education when national income is growing at such a slow rate?

This unwanted and disproportionate growth has created consequential problems, namely, disproportionate number, and lack of facilities available, has created unrest among the educated youth, and, secondly the problems of unemployment, underemployment, and mal-employment arising out of overgrowth of educated persons. According to the available figures, the number of job seekers with employment exchanges in 1971 was 22.96 lakhs. This number has risen by now considerably. The overgrowth of higher education has, thus added to the magnitude of unemployment.

The overgrowth is also interconnected with some other problems. Any solution must therefore take into account following relevant factors:

i) How is the problem of higher education to be solved?

ii) to what extent the undergraduate and post-graduate degrees can be de-linked, as far as job market is concerned?
iii) How more jobs can be generated, so that those who enter the working force via colleges and Universities, develop faith on the system of education.

iv) and finally the cheap access to the college and university education, which has added to over-crowding.

Evidently, none of these problems can be solved by educationists with any degree of competence. This can be solved by interlinking education with economic growth and productivity.

The over-growth has further created difficulties in operating the existing system of education in the country. As a matter of fact the system was either broken or is beginning to break down. At least in three areas the system has broken down already, one is regarding its efficiency, e.g. nearly 50% of the students who enter colleges do not pass out-Second is regarding productivity i.e. those who pass out lack even the basic skill which are required for middle-level jobs, and third aspect in which system has failed refers to the wastage of resources.

While the first two problems refer to the capability of education system, the third problem relates to the social and economic context of the country and in that sense is beyond the competence of educationists. To meet the situation number of methods were proposed- some of them are admirable in themselves- Correspondence Courses, Non-Formal and Distance Education- and deserve to be encouraged. But whatever may be the methods to divert the pressure, in the end it will boil down to the capability of economic system to generate jobs. The crucial problem therefore is to develop the economy in such a way that more and more
jobs are created and all those qualified are gainfully employed.

As for as the implementation of the National Policy of Education 1985 is concerned, the question arises as to what extent this policy has been implemented? The three main parties for any attempt to implement the NPE are Centre, The State Governments and the Teachers. Unless there is mutual understanding and coordinated action on the part of each one, there can hardly be any forward movement.

As for as the Central Government is concerned, since Education is in the Concurrent List now, the Govt. is trying to do whatever it can, for implementation of NPE. But the Central Government has failed to bring any corresponding change in the strategy of development. The strategy remains what it has been for over three decades. Only some adjustments have been made to cope up with the situation from time to time. The large scale subsidization of higher education still continues. The job opportunities have not been proportionately enhanced. The expectation from the education system still remains low. No serious attempt has been made to link education with development. So the problems confronted earlier still confront the society, resulting into unrest, unemployment, and lowering of standards.

The State Governments instead of acting on the NPE, in fact react. The States only act when pushed by the Centre and they react mainly when States find that in certain cases they cannot act as desired by the Centre. The sheer financial crunch makes it difficult for the States to fall in line with the Centre’s desires. As far as the teachers are concerned instead of getting mobilized in favour of new policy, their activities centered round
the new grades and pay-scale. Everything else was pushed into background so much so, that no one in academics had even time to look into the issue of how NPE is being implemented. How effectively is the NPE being implemented, with what degree of success or commitment are issues that are not even being raised. In a manner of speaking the initiative is entirely that of Ministry of Education and everyone else feels unconcerned. The States and Universities do not feel actively involved as they should unless prompted to do so. This is a sad situation because no one has greater vested interest in revitalising higher education than the teachers themselves. Not only they are involved in it, their prestige and their future depends on how this particular sector of education performs\textsuperscript{17}. As for as teachers are concerned, issues other than the scale of pay hardly interest them.

a) Distance Education

Irrespective of socio-political structures and economic growth of different countries of the world, the distance education has made the significant contribution to the spread of education, particularly higher education of people who could not pursue their education in the conventional institutions for one reason or another. Both developing and developed countries have accepted methodology of distance education as a sound pedagogic means to offer education, with minimum expenditure to a larger number of people. Depending on the objectives and specific needs of the country, distance education adopts itself accordingly. The usefulness and the effectiveness of this mode of education depends on the resources, both human and material, the policies adopted and the attitude of the learners in the country.
The emergence of distance education worked a clear departure from centuries old teaching-learning method. The face to face teaching in classroom atmosphere, where teacher plays a significant role in educational process of the learner, shifted from shaping of personality of the learner to influencing their attitudes and imparting knowledge to them. Rapid industrialization, growth of science and technology has further resulted into explosion of knowledge and information. The life pattern of the people has undergone a sea change. The working class, different groups of population, housewives and people who are in situations geographically, socially and economically, cannot afford time and money required to pursue studies in a formal, on campus manner. Thus distance education seems the only alternative method of education.

Distance education should be viewed as an outcome of certain historical, social and technological forces and as a system which is firmly related to the social and cultural environments. The development of the electronic mass media, opened up new channels of communications which have been able to replace the usual or normal channel of oral communication. It has been possible for several countries, particularly in the developing countries, to open up whole TV channel for transmission of educational programmes throughout the day. Two-way transmission makes possible not only communication of educational programmes but also a quick feedback on them.

Distance education is a wider system in terms of both its connotation and denotation. Its connotations is wider because it works within a much larger learning situation, a situation in which many factors remain indeterminate and inchoate. It has a wider denotation also in the sense that it covers considerable
distances in order to communicate. Hence a kind of structure can be seen within the overall activity of distance education. Various elements such as Printed Material, Audio-Visual Aids, Radio & Television, Computer Aided Training and study groups, form basic key elements of the structure.

The distance education has been used as an effective tool for spread of education in whole Europe, America, Canada, Japan and Australia. The countries like Russia, China and Korea too have adopted distance education methodology creatively to meet the specific education training needs of their working class. A number of distance education institutions have been setup in Africa, Asia and Latin America. The world wide spread of distance education gives us an impressive picture in terms of number of institutions, enrollment of students; number of courses and variety of programmes offered.

The Open Institutions or Open Universities is particularly characterised by the removal of the restrictions, exclusions and privileges, by the accreditation of students previous experience; by the flexibility of the management of the time variable, and by substantial changes in traditional relationship between teacher and the learner. All Open Universities practice distance education. In many ways, it is the perception of possibilities in the postal service that first gave rise to correspondence courses with recent advances in service and technology, more attention was focussed on the learners and their needs. Thus distance education marks a transition from more traditional concept of education that distinguishes human society, the new ideas implicit in science and technology, created new demands and exerted different kind of pressure upon the traditional system of education and gradually
produced newer systems such as distance learning. The emphasis changed from the teacher to the learner. It is the learner who is undergoing a primarily subjective transformation and hence the learning process is bound to be determined more by what the learner can take and how he can take it, than what the teacher has to offer him. The role of teacher is to be seen as the collaborative. It is this role that makes distance education such a tricky venture. It is perhaps the most vulnerable kind of human venture, precisely because it is subject to the special needs and capabilities of the learner. It is the learner who, in terms of the deepest psychological meaning, rules the roost and sets the terms. He is the autonomous entity within the educational process. Quite naturally distance education has been a part of large social movement towards greater democratization which has resulted in an effort to provide higher education at all.

**Indian Position**

In independent India also, we continue to be preoccupied with the University in an attempt to make higher education meaningful. Learning continues to be looked upon as a process distinct from working or earning a livelihood. A learner spends a certain part of his life in learning and then proceeds to earn a livelihood. This formal concept of learning restricted education to a certain age limit and to a definite student system governed by the set of rules and regulations that controlled the learners with a formal system of education. In India distance education is obviously a radical departure from the past. It is a whole new way of learning and living.
Faced with the gigantic problem of education large number of population, which cannot be catered by conventional system, the distance education being the only alternative is being encouraged to shoulder the responsibility. The distance education came into India in early sixties. The number of Universities offering courses through Correspondence rose from 4 in 1960 to 35 in 1988-89. The concept of learning further evolved out of several contemporary developments—including growth of science and technology, computer, information theory and communication media. The concept of learning became a life long process and not restricted to a rigid formal system. Learning became a non-formal activity and cannot be brought under any normative restrictions. This transformation led to more secular view of education and brought it closer to the spirit of modern science. Just as science insists upon criteria of validation which are based upon the observation and experiments, so also modern concept of education provided the answer in this direction. The learner became the final unit or entity that determines the entire system. Therefore further development in distance education was quite natural. Accordingly seven Open Universities were setup in State of Andra, Rajasthan, Maharashtra, Madhya Pradesh, Bihar and other States. In 1985, Indra Gandhi National Open University came into being by the Act of the Parliament. The present position is that there is one National Open University, few State Open Universities totally independent in their character and Directors/Institutions/Departments of Correspondence Course or Distance Education Institutions as a part of the Conventional University depending wholly for resources, recognition etc. on the Conventional Universities.

**Distance Education in Jammu and Kashmir**

The University of Kashmir started the Institute of Correspondence Courses in 1976, in the same year University of Jammu
also started a similar Institute as a part of the University of Jammu. The Institute of Correspondence Courses, University of Jammu, continued to be a Correspondence Institute till date. But in University of Kashmir, the Institute worked as a Centre for Correspondence Courses upto 1985 and it was renamed as the Department of Distance Education in the same year. In the same year Faculty of Non-Formal Education was constituted in pursuance of the guidelines of the University Grants Commission. The rationale of constituting such a Faculty is to consolidate and streamline the functioning of Non-Formal Education Programmes conducted by the University. Thus the Department of Distance Education, Centre of Adult Continuing and Extension Education and State Resource Centre have been brought under the umbrella of Faculty of Non-Formal Education, University of Kashmir.

The constitution of a Faculty of Non-Formal Education has strengthened the Departments of Non-Formal Education particularly the Distance Education in our State. The constitution of the Faculty of Non-Formal education was expected to reduce the dependence of the Distance Education on the formal Departments of the University in order to formulate as well as introduce their various schemes and course. Since the managers of the formal system having little or no comprehension, of the working of the Distance Education System would not look to the system favourably. To be more blunt, the system of Distance Education was an anathema to most of them. The approval of distance education schemes and programmes was a nerve straining process because most of these schemes of distance education had to pass through various bodies of formal system of education. This resulted in a situation where the Distance Education System would suffer, working and efficiency of the Distance Education System would be jeopardized. The
constitution of Faculty of Non-Formal Education was expected to entitle the constituents of the Faculty to have their own Boards of Studies, Board of Research Studies and such other academic bodies. This would have enabled the Department to design their own curriculums, develop and devise their own programmes and effectively implement these without suffering the rigorous of procedures of the formal system.

The formation of the Faculty of Non-Formal Education helped the managers of distance education only to a small extent. The Faculty of Non-Formal Education has not been composed or constituted till date even though ten years have elapsed from the date of its creation. The department of distance education have to operate and function within the frame work of the formal system.

The present system of distance education in the University of Kashmir suffers from certain inherent problems? namely:

i) The distance education is treated as the appendage of conventional system. The distance Education department do not enjoy any freedom in designing the courses or incurring of expenditure.

ii) The decision making administrative and academic is totally in hands of the University of Kashmir. In fact Department of Distance Education is treated as one of the Departments of the University.

iii) The rules and regulations, regarding admission, examination, certification etc, are same as those stipulated for regular courses.
iv) The Distance Education, management and organisation is very weak. The University, has not given status that the management and organisation deserves.

v) The distance education do not enjoy any autonomy academic, administrative and financial within the University system.

vi) No media support is available to the distance learner and no effort has been initiated by the University in this direction.

vii) The distance education is incomplete without a strong student support service. University of Kashmir, has not allowed the Distance Education Department to develop strong Student Support Service, by establishing Study Centres at all district headquarters of the State of Jammu and Kashmir.

**Education in Constitutional Scheme**

Education is a subject which has been dealt within the constitution, but the provisions are far from adequate. The state has no obligation to provide education for the citizens of India, although on general principles it is considered to be the duty of every State to provide for the education of the people. The relevant, provisions only occur in Article 41 and 45 of the Directive Principles of the State Policy, contained in Part IV of the Constitution. Half hearted and haulty, as the provisions are even these directives have not been complied with. Article 41 says that
State shall "within the limits of its economic capacity and development" make effective provisions for securing the right of education. Our annual budget contains only very inadequate and insignificant sums relating to education, and the provisions made are far from being "effective". Art. 45 requires the State to provide free and compulsory education for all children until they complete the age of 14 years, within the period of ten years, from the commencement of the Constitution. That period has long gone by, but primary education has not been made compulsory or provided for by the State in terms of Directive Principles anywhere in India. Besides there has been conflicts between Centre and the States on the subject of education. "Education remained as a State Subject. Although, the University Grants Commission has been constituted by the Act of Parliament. The Commission has done valuable work in coordinating higher education all over the country. On the other hand, it is questionable whether the subject of "education" has been wisely administered by the State. Some States like State of Andra, State of Madras and also State of Bihar, have brought forward the University Bills or amended the existing Acts, with the intention to interfere in the affairs of the Universities. The UGC, has taken exception to such provisions. That is why Education now has also been brought under the Concurrent List.

India has adopted a socialist pattern of society as its goals which envisages, among other things that the benefits of the education must spread among the masses in an equal measure. "Education" finds a special mention in three Directive Principles of State Policy. The scheme of the Constitution regarding "Education" makes it abundantly clear that though the framers sincerely intended to make education available to every one irrespective of
his social, or economic status, they reserved this process to be carried out through the wings of Legislature and Executive without involving the Judiciary, except to the extent provided under Art. (2) or to the extent which Courts can give effect to Directive Principles in Construction of Laws.

The Preamble and Directives, unlike the Fundamental rights are not justifiable. They lay down the policy which would be followed in governance of the country and therefore represent the law as it ought to be rather than as it is. The scope of the directives is fairly wide and covers economic, social, educational, industrial, agrarian and foreign policies to be pursued by the government. Though the Directives are non-justiciable, their existence in the body of the Constitution cannot be altogether ignored even by judiciary. The erstwhile judicial attitude has been to take cognizance of the directives for the purposes of determining the validity of social legislation.21

Under article.41, it is laid down, among other things, that:

"The state shall within the limits of its economic capacity and development, make effective provisions for securing the right.... to education."

The right to education as such has not been included in the list of fundamental rights of Indian Constitution. The framers could not make the right to education as a fundamental right, and could only lay down a directive principles for the Executive and Legislature to make effective provisions in the direction of securing the right of education for all. The extreme difficulty
which they contemplated is evident in the phrase "within the limits of its economic capacity and development." Therefore under this provision itself there is not much scope for a general right to education keeping in view the economic condition of the country. Yet the directive is there and with the advance on the economic front, the government will be obliged more and more to create such conditions under which the right to education may be secured22.

Article 45, which makes provision for free and compulsory education for children provides:

"The state shall endeavor to provide within a period of ten years from the commencement of the constitution, for free and compulsory education for all children until they complete the age of 14 years."

This provision casts a duty on the State to provide for education of Children. Pandit Jawahar Lal Nehru in one of his speeches said,

"Nothing saddens me so much as the sight of children who are denied education- If our children today are denied education what is our India of tomorrow going to be ? It is the duty of the State to provide education for every child in the country. And I would add that it is the duty of the State to provide free education to every child in the country23."

On analysis one finds that there are three different aspects of the provision. First a time limit of ten years has been pre-
scribed within which the State should act in this behalf. But it is simply directive and not a legal mandate, and therefore if the State has not been able to do the needful upto 1961 nothing very serious has happened. The time limit has been given in order to provide an incentive and to provide basis of expediency to the State to take necessary measures in this regard at the earliest.

The other aspect of the provision is that children should be provided free and compulsory education. The education of the children must necessarily be free and compulsory in the interests of the nation. The mind of the child is like a clean slate and, therefore it is essential that the child should be engaged in study and should get little time for mischief. Yet another aspect of the provisions is that education should be free and compulsory for children upto the age of fourteen years. This age limit, covers three important stages of a man's educational career—the pre-primary, primary and basic education.

Article-46 deals with promotion of educational and economic interests of schedule castes etc. Under this article State can do anything to advance the educational interests of the weaker sections of the people. It is the pious duty and a solemn obligation of the State to protect and promote the educational interests of the weaker sections of the people, especially of the schedule castes and schedule tribes. But this must be done in such a manner as not to prove harmful insofar as the interests of the rest of the community are concerned.

The educational planning in India in relation to the Directive Principles of State Policy under the Constitution has so far remained confined to Article-45 and little emphasis has been laid to other two articles. In the sphere of primary education, the
Directive principles of state policy required that universal, free and compulsory education be provided for children up to the age of 14 years, within ten years of the commencement of the Constitution. More than fifty years have passed and only about 60 percent of the children of the age group of six to fourteen are going to schools. Although the framers of the Constitution were over enthusiastic in matters of introducing free and compulsory education in India, yet the provision for universal, free and compulsory education is not an easy task, more so for a country with so many problems, and with such a poor economy. When development in every sphere is to be made through planning and when planning is a continuous process, it is too much to expect that ambitious goals could be attained merely by laying down a rigid time limit for them. The difficulties which arose in the implementation of Article 45 were because of bringing children to schools, backwardness of areas and certain sections of population and dropout rate. Another great hurdle is the financial inputs required for promotion of the education at all levels. The education always got a subsidiary treatment as far as allocation of funds was considered. Coupled to these problems was the inferior position which the Directives have in the scheme of the Constitution in relation to the Fundamental Rights. Though some sanctity is attached by the Courts to these directives, yet they could not be held to have overriding effect over the fundamental rights. The only alternative seems in the efforts of the States to incorporate these Directives Principles of State Policy in their laws and thus give them the element of justiciability.

For a developing country, the development of education is a first, and should in no way be given an insignificant place in its programmes for progress. The directive principles are there to
guide and State should make proper use of them. It is only then that a silent social revolution could be brought about which would lay a truly firm foundation for democracy in the country. Whatever may be the position of the directive principles of State Policy in relation to the fundamental rights generally, it is an acknowledged fact that the slow pace of the implementation of the directive principles has not been due to the obstacles created by the judiciary. The difficulties in main are financial and psychological, a part from the imperfection which may be inherent in the machinery for the implementation of the plan.

Thus the exalted place which education holds in our society inspite of its non-accessibility to masses has been well-known. Even during the freedom struggle our leaders did not miss even a single opportunity to claims education as a fundamental right in any possible future Constitutional scheme of our country. Yet when the time for framing of the Constitution came, the framers at one stage clearly provided a right of education, among the enforceable rights later designated as directive principles. But soon realizing the practical difficulty in enforcement of such a right they shifted to the category of Directive Principles of State Policy. Education finds special mention in as many as three Directive Principles of State Policy i.e. Art. 41, 45 and 46. The scheme thus makes it abundantly clear that though the framers sincerely intended to make education available to every one irrespective of his social or economic status or capacity, they reserved this process to be carried out through the wings of Legislature and Executive without involving Judiciary, except to the extent which Courts can give effect to Directive Principles in construction of Laws.
It is in this context the Judiciary has attempted to improve the dismal programme of the government by reminding it of its role and obligations as enshrined in the Constitution. The Courts have harboured hard to improve the situation by raising the level of education to fundamental right is laudable and a big step forward in direction of bringing about a meaningful change and social awareness. As such this Judicial activism deserves to be lauded, but it raises serious questions, namely:-

i) Does the Constitution contemplate any fundamental right in addition to those enumerated?

ii) Is there any scope to include right to education among such rights?

iii) If a Fundamental Right to Education is recognised what will be its scope and content?

iv) Will it be simply a freedom or a privilege to get oneself educated or remain uneducated or will it require the State to provide necessary opportunities to everyone to get oneself educated?

v) Does it contemplate any positive obligation on the state to make education opportunities available to everyone?

vi) Will the State be able to carry out the obligations?

In this study all those matters have been dealt in detail in relation to the education legislations, University Acts of different States and Judicial pronouncements. The study shall also deal
with important aspects of distance education in India and problems arising thereof. The problems regarding accessibility on the one hand and academic and organisational activities of the institutions on the other. The study shall also focus its attention on autonomy and academic freedom and on management dimensions, of distance education system with special reference to Jammu and Kashmir State.

The study shall also attempt to answer the problems faced by the Distance Education sector of the country, namely:-

i) Legal issues governing, the relationship between the educational institutions and its students particularly in the matters governing admissions and examinations. These relate to academic side of the system.

ii) Legal issues arising between the University and its employees on the teaching staff, such issues relate to the autonomy and accountability.

iii) Issues arising out of selection of some academic bodies such as University Council, the Syndicate, Academic Council etc. These concern the nerve centre of the University.

iv) Issues arising out of the powers vested with Chancellor, Pro-Chancellor and Vice-Chancellor, these relate to management side of the University system.

v) Rights of minorities in the field of education has also created certain controversies. Such matters have implic-
ations much beyond the academic and organisational aspects.

The issues mentioned above have yielded a lot of judicial pronouncements and have been thoroughly analysed.

Besides the problems of educationists, administrators and policy makers in Distance Education system are of different sort. They face peculiar problems, namely:

i) How should they formulate the policies in this new system of education?

ii) How should they proceed when issuing a departmental instructions, or when framing the Statutes, Ordinances or bye-laws or regulations, as to ensure that they have complied the legal norm;

Distance education is known particularly for its adoption of new information technologies in course development, production, delivery and Student Support Service, yet this system suffers from some inherent problems? The problems are:

i) The distance education is treated as the appendages of conventional system. As such distance education system do not have any freedom in designing the courses or incurring of expenditure.

ii) The decision making academic and administrative is totally in the hands of Conventional Universities;
iii) The rules and regulations regarding admissions, examination, certification etc are same as those stipulated for regular courses;

iv) The distance education system is not given any administrative, academic and financial autonomy, within a conventional system, which is most essential for the growth and development of the system.

Bearing all above factors in view the study presents a socio-legal analysis in the nature of guidelines for future conduct of distance education institutions in general and the Distance Education Institutions of University of Kashmir and University of Jammu in particular.
REFERENCES

2. Sankalia, H.D. University of Nalanda p.2
3. Quoted from the Founder Memorial Lecture (1967) at Shriram Research Institute.
5. Id 65
10. Id p 278
12. Convocation Address by Prof. Satish Chandra in the University of Kashmir dated 27th October,1979 p.3
13. ibid p 4.
14. In locating the contributory factors to the causes of this high rate of annual growth of enrollment since the post independence period. Dr. Adisesiah observed, that: "Foremost was the rising expectations which free India generated and population bulge which independent India ushered in."


The other reasons was the recognition that Higher education bestows upon one, the prestige and place in the society; and linking of degrees with jobs.
17. ibid
18. Growth and Philosophy of Distance Education DE-1 IGNOU Publication.
22. Sharma, G.S. Educational Planning its legal and constitutional implications, P. 158.
23. J. Jawahar Lal Nehru’s Speeches.