Comment by Dr. C. Elaiyaraya on Antarnihita Mishra & Aman Kumar's Essay - South Asian University: Towards a 'South-Asian' Approach to International Law

By:

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This comment was provided in response to the two part essay by Antarnihita Mishra and Aman Kumar. South Asian University: Towards a 'South-Asian' Approach to International Law – Part I South Asian University: Towards a 'South-Asian' Approach to International Law – Part II.

Respected Students/Academicians,

Myself Dr. C. Elaiyaraja, Assistant Professor, Department of International Law

and Organisation, The Tamil Nadu Dr. Ambedkar Law University, Tamil Nadu, India. At the outset let me soulfully thank the committed researchers, academia and various centers of learning associated in this purposeful academic mission for providing the opportunity to register my academic impressions so as to facilitate the refining of the Curricula of the Faculty of Legal Studies, South Asian University. My concerns and suggestions are as follows:

Jurisprudence as a discipline is taught through out the world maximally with the legal thinking movement of the European region with certain insights from the American schools. In reality the subject is a combination of theology, general philosophy and legal philosophy. Students, are taught about conceptualisation of law without human enquiry (as philosophy is rooted on self-realisation), Without a human analysis of law the syllabus moves on to legal analysis of law. For example, the relevance of understanding law as such cannot be understood without searching the relevance of law in human life. The legal thought based on the scholarly debates of Comte, Bentham, Locke, Austin, Kant, Hegel, Kelson, Hart are indeed useful, But they are not universal and they revolve around region centric view points. Stated differently, the Benthamisation, Austinisation of jurisprudence cannot foster original or humans as law students and their self enquiry in to law.

To explain, the terminologies inter alia such as personality, identity, knowledge, reasoning, intellectual enquiry, laws of nature, approaches, perspectives, policy, scientific study, theory, argument, analysis, logic, positivism, formalism, realism, ethics, morals, conscience, culture, fundamental, critiquing and interpretation does not belong to the field of law or legal philosophy in the elementary sense rather they are found in the disciplines such as theology, philosophy, anthropology, ethnology, political science, sociology and other related fields of knowledge. So it is high time the students, have to be introduced to self enquire law rather solely enquiring from the european and western school of thought. A proper examination of the curricula of the South Asian University on Jurisprudence will indicate again jurisprudence in the name and essence of the reading list promoting european or western jurisprudence. There is a serious vacum in the appreciation of the contributions of Asian and African Scholarship, even if seen purely from a legal thought process.

More importantly, as the SAU Faculty of Legal Studies is devoted to the international legal studies movement, the jurisprudence part ought to remain universal and not euro or west centric. To say, the legendary work of Professor and Judge Christopher Gregory Weeramantry on Islamic Jurisprudence and Universalising International Law, the anti-discriminatory and human rights jurisprudence of Frantz Omar Fanon on Black Skin, White Masks, Professor Onuma Yasuaki's treatise on International Law in a Transcivilisational World, the Presidential Speeches of Professor Radhakrishnan constitutes a rich repository of the knowledge of philosophy, governance and universal welfare of mankind, the works of the Pakistani Philosophers such as Allama Iqbal, Moulana Maududi Khan, M.M. Sharif, C.A. Qadir, original research done by Chiekh Anta Dioph, Ali Alamin Mazrui, Kwame Nkrumah, Leo Fabrinious, Bethwell Ogot, Adu Boahen representing African historians, anthropologists, political scientists, social scientists on the relationship between Human Civilisation, Nature and international relations and similar genre of scholars reflect magnificent understanding of laws of nature from the perspective of theology and contemporary philosophy.

Oddly, the curricula in the SAU, FLS does not include even a fractional representation of all these value based knowledge repositories. Now, the soul searching cum academic question is: the discipline of jurisprudence is an intellectual enquiry of law at a human and universal level, can it be stereotypically disseminated to Asian students with Euro and West centric approaches to law? Students without learning the art of human enquiry how far they can enquire law as such? Syllabus drafters must ask a fundamental question why students learning jurisprudence throughout the world struggle to learn the philosophy of law? Is it a legal puzzle? How one can associate with the central project of "what is law" without corelating law with self. human life and nature? Is the standard of discussions in the materials based on the standard of human as youth or young mind? Can the students learn the application of human thinking and enquiry based terminologies without being supplemented a reading list in other fields of relevant knowledge? How far the syllabus in jurisprudence takes into account the intellectual dishonesty of the scholarship? With due respects the works to the jurisprudes around the world, how far the Asian students are taught the self -awakening movement or scholarship? Human Rights jurisprudence on the basis of human dignity, equality, non-

discrimination, fundamental freedoms, democracy, self-determination, revolution, universal human welfare ever constitute an integral part of the discourses combining jurisprudence and international law? Conversely, the syllabus on jurisprudence promotes the influential role of colonial or neo-colonial thinkers?

As most of the so called classical or traditional scholars and their influential writings cited in the curricula never ever questioned their own European or Western ideology international colonial legal order and de-humanisation patterns in other parts of the world. Ironically, all the member States of the SAARC are liberated from the European colonial genocidal mission and the students of the South Asian University are not introduced to the writings of the freedom fighters or works of the father of the nation. As the writings of the freedom fighters against european and western colonial domination reflect universal thinking of human life, values and virtues for fellow human beings, mutual acceptance and friendly relations, governance, law, philosophy, spirituality and above all the promotion of the principle of unity in diversity.

Again to illustrate, the SAU curricula, to name a view universal and national statesman should contain the writings of Mahatma Gandhi, Mujibur Rahman, Mohammed Ali Jinnah and Khan Abdul Gaffer Khan. Hence, with all the above and with the genuine intention of promoting useful and value based knowledge to the student fraternity of the SAU, Faculty of Legal Studies, I have placed my soulful cum academic suggestions to the concerned and interested learned colleagues of the SAU, Faculty of Legal Studies, Student co-ordinators, the Faculty co-ordinator for Jurisprudence, the Dean, the Board of Studies, for serious amendment of the syllabus for jurisprudence.

It is my humble opinion that the current syllabus does not represent either the vision of South Asian University nor the Universal human welfare oriented understanding of Jurisprudence. Kindly do not treat it as a complaint it is an opportunity exercised by a fellow academician in discharging the human cum intellectual social responsibility. Especially, for the benefit of present and future generations of student fraternity. This is precisely the reason, that I have recorded a detailed review and suggestions rather a comment. Again, I thank all the excellent academicians and researchers for extending this wonderful

opportunity in revising the curricula of the Jurisprudence in the Faculty of Legal Studies in the purposeful international institution of South Asian University. May Almighty Guide the Faculties, Students and the Institution. Heartiest Wishes

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