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REPRODUCTIVE RIGHTS AND LAW: A JURISPRUDENTIAL INQUIRY

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Abstract: Reproductive rights are an integral component of human rights, women's rights, and constitutional promises of dignity, autonomy, and equality. The current paper examines the legal conceptualization of reproductive rights, situating them in larger human rights frameworks, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979), and concomitant agreements. By viewing reproductive rights as a continuation of the right to life, freedom, privacy, and autonomy over one's body, the paper critiques how legal thinking has increasingly accepted reproductive choices as essential to women's autonomy. The essay further discusses the tensions between state interests and individual liberty in moral, population control, and public health matters. The examination of the law on reproductive rights reveals continued challenges such as patriarchal dominance of women's bodies, unequal access based on social and economic disparities, and cultural or religious constraints tending to obstruct protection of these rights. The paper also calls into question whether existing legal frameworks appropriately take into account the needs of marginalized groups, such as single women and women with disabilities. Finally, the paper contends that reproductive rights are not only moral or medical concerns but questions about justice and equality of a grand nature. Utilizing human rights discourses, feminist legal theory, and comparative law, the paper emphasizes the need for a rights-discourse based, inclusive, and situation-conscious approach to reproductive freedom.

Keywords: Reproductive Rights, Human Rights, Women's Rights, Bodily Autonomy, Abortion Rights, Right to Privacy, State Regulations, Reproductive Justice.

I. Introduction

The Reproductive rights constitute an essential element of human dignity and body autonomy. It includes access to legal and safe abortion, contraception, assisted reproduction, and proper maternal care. In legal scholarship, they are central to feminist law, constitutional law, international human rights law, and bioethics. However, the legal vocabulary surrounding them reveals an ongoing conflict between personal autonomy and counter-claims of state interest, religious morality, and gender equality. Judicial

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intervention has been instrumental in shaping the contours of reproductive freedom. The development of reproductive rights jurisprudence has proceeded in an uneven manner across jurisdictions, premised on divergent socio-cultural, political, and religious environments. Illustrative cases include the course of abortion rights in the United States both their entrenchment in *Roe v. Wade* (1973) and their erosion in *Dobbs v. Jackson Women's Health Organization* (2022)—and the Indian Supreme Court's acknowledgment of reproductive autonomy under Article 21 of the Constitution in *Suchita Srivastava v. Chandigarh Administration* (2009). This question seeks to examine the jurisprudential underpinnings of reproductive rights through an analysis of how legal systems think about, safeguard, or limit them. It will evaluate how international human rights paradigms inform local legal constructions, the gendered aspects of judicial judgment, and the impact of milestone cases in establishing reproductive autonomy. The ultimate issue is whether reproductive rights are reaffirmed as inherent human rights or remain subject to judicial and legislative discretion.

II. Literature Review:

A. Jain, D. (2020). Reproductive rights jurisdiction in India 39(2) 1-53, This paper is a reconsideration of reproductive rights in India, author criticized how to regulate abortion in the country. Author argues that the medical approach holds a lot of power in the hands of doctors, leaving women in a passive role, where their choice depends on medical approval rather than his autonomy. To combat this author approach a model contained in constitutional principles of equality and dignity under Article 14, 15 and 21. For Jain, breeding autonomy is central for personal identity and personal freedom. Paper attracted to major decisions such as *Suchita Srivastava* and *Puttaswamy*, which reflects a change in the direction of recognizing equality and privacy in decision making. A major strength of his argument focuses on autonomy and dignity, in association with a call for India to align with global human rights commitments such as CEDAW.

B. Perehudoff, K. Bogecho.D &Valiotis G. (2022). A comparative human rights analysis of adolescent contraceptive laws in Uganda and Kenya 24(2) 237-248, This paper examine how the laws in Uganda and Kenya regulate the reach of teenagers to contraception, measuring them against international human rights standards. Their analysis suggests that restrictions based on age, matrimonial status, or consent requirements often reduce the amount for autonomy and discrimination of young people. By applying benchmarks from WHO and establishing human rights principles, the study has highlighted structural obstacles that limit teenagers' ability to create reproductive options. Writers also indicate legal stress between national laws and global human rights obligations, underlining the need for improvement.

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Eventually, they ask courts and policy makers to give more weight to autonomy, equality and meaningful access when shaping reproductive health policies.

C. Mayall, K. Ajayi L & Gruer (2025). Global progress in abortion law reform 33 (1): a comparative analysis 1994-2023 presented a comprehensive study of abortion law reforms between 1994 and 2023, covering 199 countries. Their analysis shows that global tendency is moving towards maximum liberalization, more than 825 million women are now reaching extended breeding rights. Writers look at these reforms within the widespread development of international human rights and gender equality criteria, arguing that abortion law is in size by the principles of rapid autonomy and proportionality. By monitoring legal and judicial changes in the areas, the study highlights how courts and assemblies are equally embrace of structure that prefer personal choice and equality. For scholars of comparative constitutional law, this work provides valuable insight on how global legal development can affect progressive jurisprudence.

D. Davis, M. F. (2024). Foreign and International Law in Abortion Jurisprudence 463, Author described how the American courts have focused on the International and Foreign Law in abortion jurisdiction, focusing on the landmark Dobbs vs. Jackson case. The majority opinion in Dobbs rejected global developments, choosing instead of rely on a narrow originalist structure, while dissatisfied justices drew attention to the widespread international consensus supporting reproductive rights. Davis argues that principled engagement with foreign jurisprudence can enrich and discipline constitutional interpretation, giving persuasive authority to advance reproductive autonomy. By developing global norms, the court risks of separating themselves from the development of broad human rights. This article highlights the critical role of comparative law, can play in shaping domestic debates on reproductive rights and critiques the shortcomings of an interpretation that disregards international perspectives.

E. Spector-Bagdady, K. & Jagsi, R. (2022). Protecting the Privacy of Reproductive Health Information after Dobbs, 3(6), Thereproductive health information addresses immediate privacy concerns. They argues that in a digital era where personal data can be monitored, shared or even armed by law enforcement, constitutional security alone is insufficient. Without extensive legal safety measures, individuals seeking reproductive care increased the risk of monitoring and prosecution. The authors expand the scope of reproductive rights discourse by connecting it to data governance, framing reproductive freedom within the concept of informational self -determination. Their analysis highlights how protecting autonomy today requires more than traditional legal guarantees - it demands to develop the privacy frameworks that keep pace with technological change and ensure that reproductive rights are not undermined by digital vulnerabilities.

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A. Research Methodology:

This study adopts a qualitative research approach in principle legal analysis to detect jurisprudence of reproductive rights. The central focus is on examining review of literature, investigating constitutional provisions, statutory framework and landmark judicial decisions, which have shaped the reproductive rights law. By emphasizing decisions from both Indian and comparative international courts, this study identifies the main legal principles, explanatory methods and judicial philosophies that outlines this field of law. This approach enables a critical evaluation of how courts are engaged with concepts such as autonomy, equality, privacy and human dignity in reproductive rights adjudication. Issues such as abortion access, contraception and maternity care are not only assessed in terms of legal results, but also in relation to comprehensive constitutional values informing judicial reasoning. To catch the interaction between law and society, this research combines theory analysis with a socio-legal perspective. Beyond studying constitutional provisions and judicial rulings, it incorporates secondary sources such as writings, legal commentaries and policy reports, to evaluate how reproductive rights are experienced in practice. This approach highlights the real-world implications of court decisions, especially for groups of women and margins that often encounter incompatible obstacles. The study also considers the impact of the International Human Rights law on the domestic legal framework, asking whether global norms proceed or disrupt reproductive freedom. By combining standard legal investigation with relevant social analysis, research wants to provide a comprehensive understanding of how reproductive rights have been shaped, contested, and preserved within legal systems.

Objectives of the Study:

- a. To examine the constitutional and human rights foundation of reproductive rights in India from a jurisprudential point of view.
- b. To analyse judicial interpretations of reproductive rights, focusing on abortion, contraception, and maternal health.

III. The Jurisprudential Foundations of Reproductive Autonomy: A Comparative Analysis of Natural Law and Legal Positivism

Reproductive autonomy, as the cornerstone of human rights, raises intensive jurisprudential questions when examined through dual lenses of Natural law and Legal positivity. Natural Law, exemplified by Aquinas and later developed by John Finnis, grounds law in universal moral principles obtained from human nature and reason. From this perspective, reproductive autonomy is justified as part of the internal

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good of the discovery of personal dignity, physical integrity, and the discovery of life options in consistent with human flourishing. Lon Fuller's insistence that the law should embody morality, further strengthens the idea that restricting reproductive rights reduces the moral legitimacy of the law, as it disregards justice and individual well-being. In contrast, the Legal Positivism expressed by Austin, Hart and Kellson distinguishes the law from morality, focusing on the validity of legal norms based on social facts or sovereign's command. Under this approach, reproductive autonomy depends on "legislative recognition" rather than inherent moral claims. Hart's "rule of recognition" suggests that reproductive rights gain legal force only when formally adopted by a legal system, irrespective of moral debate. Thus, while Natural Law emphasizes reproductive autonomy as a moral imperative grounded in human dignity, Legal positivism highlights its contingent status within positive law, reflects widespread tension between universal rights and sovereign authority.

IV. Historical Jurisprudence and Evolution of reproduction laws

The historical jurisprudence sees the law as the result of social development, which is shaped by the collective consciousness of a community over time. Thinkers such as Savigny emphasized that the law should reflect a *Volksgeist* (people's spirit) and develop it organically with society. Applying this lens to the reproductive rights suggests how the reproduction and physical autonomy were historically ruled by religious, moral and customary norms rather than the individual choice. The Ancient Indian texts such as Manusmriti and Mitakshara recognized reproduction as the social duty, associated it with the family lineage and religion. The reproductive autonomy of a women was largely subject to the patriarchal structures, and the decisions around conception or the termination were determined by social and religious obligations. During the colonial era, reproductive cases were coded through statutory intervention, many of which reflected the Victorian morality. Criminal abortion under Indian Penal Code, 1860, Section 312–316 reflects a conservationist approach to fatal life rather than maternal autonomy. These laws created a rigid structure where reproductive choice was limited, and women faced the legal and the social consequences for seeking abortion. However, the early debate on the public health and population control gradually paved the way for reforms, as seen in the post-independence Medical Termination of Pregnancy (MTP) Act, 1971. The Act represented a change for regulated autonomy from punitive control, which balances a woman's right to choose to choose the right to safeguarding health. Despite this evolution, challenges remain in harmony with historical values with modern principles of the autonomy and the equality. Constant debate on the abortion, surrogacy and assisted reproductive technologies reflect tension between tradition, religious morality and the constitutional rights. Historical

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jurisprudence helps to detect this journey, reminding us that the laws should be developed to reflect changing social realities and maintain human dignity.

V. Sociological Jurisprudence and Critical Legal Studies as Tools for Advancing Reproductive Justice and Social Transformation

Sociological jurisprudence and Critical Legal Studies (CLS) provide complementary frameworks for advancing reproductive justice and widespread social transformation. The insight of Roscoe Pound lies that the law should respond to social needs, the Sociological Jurisprudence views law is not as an abstract command but as a living institution shaped by cultural values, community interactions and social realities. In the context of reproductive justice, this approach highlights how reproductive healthcare, physical autonomy, and equality access to equality can not be protected through legal rules alone, but requires recognition of social conditions such as poverty, gender hierarchy and cultural norms. The emphasis of Roger Cotterrell on law as communication strengthens the need for inclusive dialogue in communities, which can include reproductive rights in shared values of dignity and justice. Critical Legal Studies, in contrast, suggests how law often attracts power and reproduces inequality. By challenging the supposed neutrality of legal principles, CLS suggests how reproductive laws - such as restrictions on abortion or aided reproduction - are embedded in patriarchal and capitalist structures that constrain the marginalized groups. Its transformative ability lies in deconstructing these hierarchies and reconstructing the law to reflect the substantive equality. Together, sociological jurisdiction and CL move beyond formal rights, imagining breeding justice as a holistic project that destroys systemic oppression and promotes real social change.

VI. Constitutional dimensions of reproductive rights in India

India's constitutional structure provides a robust foundation for the recognition of reproductive rights as an integral part of personal liberty, dignity and equality. Article 21 of the Constitution, guaranteeing the right to life and personal liberty, has been explained in detail by the Supreme Court to incorporate breeding autonomy. In *Suchita Srivastava vs. Chandigarh Administration* (2009), the court confirmed that a woman's right to make reproductive choices comes falls within the ambit of personal liberty, protecting physical integrity and decisive autonomy. Similarly, landmark *K.S. Puttaswamy v. Union of India* (2017) judgement recognized secrecy as a fundamental right, strengthening reproductive freedom as an essential aspect of personal dignity. Under Article 14, the constitutional guarantee of equality and non-discrimination under Article 15 and non- discrimination under Article 15 further underpin the reproductive rights by ensuring that denial of access to reproductive healthcare, contraception, or safe abortion

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amounts of gender injustice. The Medical Termination of Pregnancy (MTP) Act, 1971 (amended 2021) showing legislative measures, showing the development of fertility, showing the developed recognition, showing the developed recognition Extend the structure. In addition, the debate about assisted reproductive technologies (ART) and surrogacy enhances constitutional concerns of exploitation, privacy and family rights. Thus, India's constitutional jurisprudence reflects reproductive rights within the wider structure of autonomy, equality, and dignity, shaping both legal reforms and social changes.

VII. Right to privacy and reproductive choice

The foundation of reproductive autonomy is the right to privacy, which permits people to make private decisions about their bodies, sexuality, and reproductive health free from undue influence. In a legal sense, privacy is more than just the freedom to be left alone; it also includes the autonomy to make decisions that are necessary for maintaining one's dignity and self-determination. This paradigm encompasses reproductive choice since choices about birth control, pregnancy, and contraception are strongly related to the autonomy and integrity of the body. The idea that the state shouldn't control when or how people choose to procreate is upheld by the acknowledgment of privacy in reproductive affairs. From a legal standpoint, concepts of liberty and autonomy are related to the right to privacy. Natural law theorists contend that reproductive freedom is a moral right since such decisions are based on inalienable human rights that come before positive legislation. On the other hand, legal positivists would emphasize privacy's place within legal frameworks by framing it as a right established and upheld by laws and constitutions. Reproductive choice is a subject of both ethical and legal relevance, since the convergence demonstrates how privacy crosses the boundaries between formal legal systems and moral philosophy.

The right to privacy, which allows individuals to make private decisions about their bodies, sexuality, and reproductive health without undue influence, is the cornerstone of reproductive autonomy. Legally speaking, privacy includes more than just the right to private; it also includes the ability to make choices that are essential to preserving one's dignity and sense of self. Because decisions about birth control, pregnancy, and contraception are closely linked to the autonomy and integrity of the body, this paradigm includes reproductive choice. The recognition of reproductive privacy upholds the principle that the state should not dictate when or how individuals choose to procreate.

VIII. Medical Termination of Pregnancy Act: Jurisprudential Analysis

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The Medical Termination of Pregnancy (MTP) Act, 1971 amended in 2021 represents an important legislative attempt to incorporate individual autonomy around abortion, public health and moral ideas around abortion in India. The Act allows to termination of pregnancy up to 20 weeks (and in some cases up to 24 weeks) under the prescribed conditions, focusing a strong focus on medical opinion as the determinant of legality. From the jurisprudential point of view, it raises the central question whether the reproductive autonomy is considered as a fundamental right or only as a state-regulated privilege.

The Supreme Court's judgement in **Suchita Srivastava v. Chandigarh Administration (2009)** was a milestone, which recognized the right to create a woman's right to create a reproductive choices as the intrinsic part of Article 21 - the right to life and the personal freedom. This interpretation reflects liberal and the feminist jurisprudence, which sees the autonomy and physical integrity required for human dignity. However, the MTP Act still retains a medical gatekeeping model, where the decision to terminate is not completely left for a pregnant person, but medical physicians are accidental. It reflects a paternalistic approach, thinking about being echoed with the optimistic, that the law, rather than individual choice, is the ultimate authority. From the approach of constitutional morality and the transformative point of view of the Indian Constitution, the Act can be critiqued for not being fully rights based. Although it carries forward access to access by expanding gestational limits and recognizing the rights of unmarried women, it prevents abortion from completely request, unlike Canada or South Africa, unlike jurisdictions. Therefore, a jurisprudential analysis of the MTP Act highlights the ongoing tension between autonomy and state regulation, emphasizes the need for future reforms that prefer dignity on decisional privacy, equality and procedural control.

IX. Surrogacy (regulation) act and autonomy concerns

Surrogacy (Regulation) Act, 2021 was implemented in India to prevent exploitation of surrogate mothers and regulate surrogacy practices. The Act allows only philanthropist surrogacy, where no monetary compensation is provided other than medical expenditure and insurance, and implements strict eligibility status to both intended couples and surrogate mothers. While it intends to protect women, critics argue that it voluntarily curb a woman's physical autonomy, which can offer financial empowerment, which compensates for the surrogacy system.

Judicial discourse in India reflects the tension between protectionist law and individual freedom. In *Baby Manji Yamada vs. Union of India (2008)*, the Supreme court recognized surrogacy as the valid means of parenthood and emphasized the need for regulation rather than prohibition. Similarly, in *Jan Balaz vs*

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Union of India (2009), the Gujarat High Court provided Indian citizenship to the children born through surrogacy, underlining the legal recognition of the surrogacy arrangements. However, the narrow scope of the 2021 Act-to take advantage of surrogacy to married heterosexual couples-to take advantage of surrogacy, to exclude the concerns under Article 14 and 21 of the Constitution related to equality, live-in partners, and the reproductive choice. From a jurisprudential lens, this law is a symbol of legal moralism and paternalism, which restrictions personal autonomy for social good. Honouring the agency of a right-based reinforcement, can regulate commercial surrogacy with strong safety measures to forcibly, smuggle and health risks. A more balanced structure will maintain reproductive justice - to make women from exploitation to take their freedom to make sure reproductive decisions.

X. Moral Dilemmas in Abortion and surrogacy

Abortion and surrogacy offer intensive moral dilemmas at the intersection of autonomy, morality and social justice. The debate of abortion often moves around to balance a woman's right to physical integrity with the ethical position of the foetus. Pro-pasted arguments emphasize reproductive autonomy under Article 21 of the Indian Constitution, assuming that forcing women to continue unwanted or unprotected pregnancies violates dignity and health. However, life-supportive approaches highlight the rights of the foetus, raise moral questions about eliminating a potential life, especially in cases of late pregnancies. The courts in India, through cases under the MTP Act, often depend on the report of the Medical Board, but this dependence bypasses the subjective experiences of women and mental health concerns, which reflects stress between medical paternity and reproductive autonomy. Surrogacy similarly increases moral concerns of exploitation, amendment and inequality. While surrogacy can fulfill the dreams of childless joints, it often depends on economically weak women who may lack real consent. Commercial surrogacy risk that reduces maternity to a contractual service, with insufficient protection for health, autonomy and dignity of surrogate mothers. The moral dilemma emerges even when the intention rejects the child born with the disabled or when the system of across the border creates a struggle on the parent and citizenship. Thus, abortion and surrogacy forces both societies to cover reproductive technologies with constitutional morality, ensuring that women's rights are central addressing moral, social and legal complications.

XI. Reproductive rights under CEDAW

Convention on the Elimination of All forms of Discrimination against Women adopted in 1979 is the most comprehensive international treaty addressing the equality of women, including reproductive rights. CEDAW frames roughly discrimination as any restriction that denies women's equal enjoyment as human

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rights, and articles 10, 11, 12, 14, and 16 especially embedded breeding health within their mandate. Article 12 has been asked to eliminate discrimination in healthcare and guarantee access to services, including family planning, pregnancy and postpartum care. Article 16 recognizes the equal rights of women to make decisions independently and responsibly on the number and vacancy of children, supported by access to information and means to use these options. The general recommendations of CEDAW further clarify breeding rights. The recommendation 14 women calls to eradicate harmful practices such as genital mutation, while the recommendation 15 emphasizes women's vulnerability for HIV/AIDS. The recommendation 19 Freedom connects violence against women for violations of autonomy, and recommendation 21 underlines equality in family life, confirming women's independent right to make reproductive decisions. Therefore, the CEDAW and its explanatory structure established reproductive rights as central for gender equality, bound to states not only to ensure legal safety, but also to ensure effective access to healthcare, education and support policies. By completing reproduction within human rights, Cedaw confirms the autonomy, dignity and non-discrimination required for women's good.

XII. Towards on Jurisprudence of Reproductive Justice

Reproductive justice, as an emerging jurisprudence structure in India, is beyond the narrow boundaries of healthcare access to embrace dignity, equality and autonomy as constitutional imperatives. In the last decade, the Indian courts have reacted progressively in an integral manner of Article 21, forming them as "the right to existence" which is associated with freedom from life, health and forced freedom. Laxmi Mandal vs Deen Dayal Harinagar Hospital and Sandesh Bansal vs Union of India, confirmed maternal health as a fundamental right, dismissing financial obstacles in the form of Defense for systemic failures. Similarly, in Devika Biswas vs union of India, the Supreme Court forcibly condemned sterilization practices and underlined reproductive autonomy and informed the necessary consent for gender equality. Judicial belief has also expanded the rights of abortion. Suchita Srivastava vs. Chandigarh administration and later High Court decisions emphasized physical integrity and reproduction options as the main aspects of independence. The courts have allowed abortion beyond legal boundaries, balanced maternal health with fatal anomalies and autonomy of women. In addition, the judiciary has faced child marriage, identifying it as a violation of equality, dignity and empowerment under Article 14, 15 and 21. This develops a change from the rightbased model of reproductive justice from population control paradigms that place women's agency at the centre, challenges structural inequalities, and align domestic law with international human rights standards.

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XIII. Suggestion - Reproductive rights in digital and Biotechnological Era

The future of reproductive rights is being reshaped by the convergence of digital technologies and biotechnology innovations. Digital platforms have already changed access to reproductive health through telemedicine, reproductive tracking apps and online forums, making healthcare more individual and accessible. However, this progress increases immediate concerns about privacy, data protection and moral use of sensitive reproductive information. Increased modification of reproductive data by technology companies underlines the need for strong legal framework to protect autonomy and informed consent. Biotechnology leads this scenario such as gene editing, artificial vums and advanced Assisted Reproductive Technologies (ART). These innovations promise new possibilities to address infertility and prevent genetic disorders, but they also increase intensive moral and legal dilemmas. Questions about genetic ownership, fatal rights and potential social inequalities in access to expensive technologies will shape future jurisprudence on reproductive rights. In the coming decades, reproductive rights must be rebuilt to balance technological innovation with human dignity and equity. Laws will need to integrate the principles of digital rights, the principles of privacy and bioethics by design, ensuring that the technology strengthens rather than exploiting individuals. Eventually, digital and biotechnology era provides immense potential for reproductive justice, but only if strong regulation, moral inspection and a right-based approach is directed.

XIV. Conclusion

Therefore, Reproductive rights considered from a jurisprudential perspective, disclose the changing role of law in reconciling autonomy, morality, and social good. The transformation from limiting reproductive legislation to structures acknowledging individual decision-making demonstrates the gradual realization by society of dignity and body integrity. Natural law, positivism, and sociological theories provide insights into the moral, legal, and social aspects of reproductive autonomy. Recent laws governing abortion, surrogacy, and reproductive health accentuate the conflict between state authority and personal autonomy, raising ethical issues requiring careful balance through the law. International human rights norms affirm the imperatives of equality, non-discrimination, and respect for reproductive freedom. As new technologies and digital health platforms influence reproductive decision-making, the law must continue to be responsive, flexible, and rights-based. A progressive reproductive rights jurisprudence should blend ethics, reality of social life, and innovation to promote justice, autonomy, and equality for everyone.

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