

GLOBALISATION AND FUTURE OF LEGAL EDUCATION

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ABSTRACT

Legal education is a human science which binding of philosophies, ideologies, techniques, critiques skills and instrumentalities for the maintenance of a just society. This article emphasises on legal education reform which is arising throughout the world. In the recent years have seen a mushrooming of ill-equipped law colleges, housed in tiny rooms with skeleton libraries and lacking well trained staff. The emergence of National Law Universities in India and the introduction of the five-year integrated law programme in the 1980s, was certainly significant. However the long-term success of the programme and the quality of the students which it produces has yet to be assessed. Globalization has great impact for the future of legal education in India. Indeed to say now a days there is required to raise the standards by creating a better research environment, developing infrastructure and giving focus on clinical legal education. The author will make recommendation for developing and improving the legal education system in India.

Keywords:

Legal education, instrumentalities, ill-equipped, globalization, clinical, skill-based, legal fraternity, recommendations.

INTRODUCTION

Legal education is the foundation of the judicial system. The effectiveness of the administration of justice can only be reaped if the legal education is governed not only for the passion who wishes to take the law as a profession but also for those who wish to be a responsible and enlightened citizen.ⁱ

The law makes us “citizen”, legal education makes us “ideal citizen”. If legal education is aimed at growing, social engineers, it would have been easier to achieve peace in the society. The object of legal education is primarily to create professional lawyers. Law without education is a dead letter. With education the law follows without effort. In order to provide legal education as the yardstick of social empowerment, it is necessary that teachers in law should lay special emphasis on the following points:

1. To reveal the process through which law can introduce significant changes in the socio-economic organisation of society which are leading to improve standard of living.
2. To imbibe students with rule of law and to develop the personal qualities required to uphold the noble ideas of the profession and secure the effective enforcement of the law in the community.

SIGNIFICANCE OF THE LEGAL EDUCATION: PROPOSED DIRECTION TO REFORM

The vision of the legal education is to provide that education which is essential to the realisation of values enshrined in the Constitution of India. *“To secure to all its citizens- justice, social, economic and political- liberty of thought, expression, belief, faith and worship- equality of status and opportunity.”* The aim of legal education is revolutionize the traditional legal system by developing in every law graduate skill concerning counselling the clients, interviewing witnesses efficiently and negotiating with parties at the appropriate point of time.ⁱⁱIt not only need to train the lawyer in solving the problems of individual clients but of the society in which he lives so as to contribute to the better understanding of the laws by which societies held together.ⁱⁱⁱ

The objective of legal education may be multi-folds in a developing democratic country like India. They are:

1. It seeks to protect and guarantee the interests and promote the welfare of the people.
2. It seeks to administer justice according to the ‘Rule of Law’ contained in Article-14 of the Constitution of India or procedure established by law.
3. In this context, the celebrated legal statement is “people’s good is the highest law”.

4. To provide continuous training to legal professional to make upto date with global market practices.
5. The need of the hour is to stress on transactional law training and clinical legal education.
6. The objective of providing justice education stand as it when the trained students do not join the justice delivery system.^{iv}
7. Legal education must be socially engaged. This means that legal education programmes must compulsory expose to the problems of poverty, social exclusion, social change and environment legislation through clinical legal education. Legal aid programs and through seminars and debates that sensitive and expose students to issues of social justice.^v

ROLE OF THE BAR IN THE DEVELOPMENT OF LEGAL EDUCATION

The Bar Council of India (BCI) is pioneer for structuring the legal education system in India as it exists today. The BCI was the first to lay down the students in terms of system, classroom teaching, practical training and skill, court visits, moot courts, legal aid work and other practical training programmes for law students. It was BCI's bold and creative decision to replace the 3year LL.B course with 5year LL.B Integrated Course and sponsor the First National Law School in Bangalore. Bar Council of India is still fixed with the view that the sole purpose of Legal Education is to generate practicing lawyers. The aim of the Legal Education should be to create lawyers who are comfortable and skilled in dealing with the differing legal systems. According to the Supreme Court of India in *O.N.Mohindroo vs. Bar Council of India*^{vi}, the BCI under Section 7(1)(h) of the Advocates Act,1961 has a role of promoting legal education and laying down practice after consulting the universities for the purpose of laying down these standards in legal education. Apart from expanding the curriculum, the law schools have to improve their libraries and video conference of lectures by foreign faculty can help in overcoming the shortage of teachers having knowledge of new subjects.^{vii} The BCI has been able to meaningfully respond and become the catalyst of socio-political change. It is the collective responsibility of the Bar and Bench to ensure that the credibility of the Legal Education is maintained. There must be an integration of a special curriculum in universities which could teach students 'The Art of Lawyering'. This is the only way to strengthen an excellent Bar in the future. In this process, legal education and the BCI

has an important role in directing and moderating social change. In this regard it has to operate as conscience keeper of society. (*By striking down the Triple Talaq Judgement in Syana Bano case and also by upholding the gay rights by decriminalizing Homosexuality*). Legal communication and the Bar council of India shall manifest higher moral values shall maintain high degree of competence discipline and ensure that no section of society is denied of access that no section of society is denied of access to its services because of poverty or social status.^{viii}

TRANSFORMATION OF INDIAN LEGAL EDUCATION

First Generation Reforms:

In Indian society, higher education is general and legal educations in particular are in a continuing process of far reaching changes in organisation, management, content and delivery. 'The basic factor in transformation of the constitutional magnate is to build a social order based on democracy, human rights and rule of law securing to all its citizens justice, liberty, equality and dignity. With this vision in 1961 the Parliament of India to enact the Indian Advocates Act^{ix} integrating the legal profession throughout the country under uniform standards and creating duly elected bar councils at the state and central levels will the authority to manage the profession including standards of legal education of course in consultation with universities on teaching law. The first generation reforms in legal education are:

1. LL.B. becoming a post-graduate (after a basic degree in Arts, Science, Commerce or Humanities) programme of three years duration.
2. Rapid expansion of law teaching institution in private sector, many of them operating as part-time institutions and the bulk of teachers coming from the practicing profession giving lectures before or after work.
3. Development of core-curriculum consisting of certain mandatory subjects offered at all full time as well as part time law colleges and
4. Establishment of a compulsory one year post LL.B. apprenticeship with a senior advocate required for eligibility of license to practice.

Second Generation Reform led by National Law School

Second generation reforms became imperative to maintain access and improve quality of legal education. The strategy was to make the LL.B. a post – higher secondary school course of a longer duration (5years) with an expansive curriculum where students study law in social

context (through introduction of a range of law related social science subjects) and employing multiple methods of teaching and evolution. The Five-year Integrated LL.B. programme was prescribed by the Bar Council of India in 1982. The Bar council of India developed a strategy of sponsoring a model law school with university status to act as a pace setter for legal education reforms envisaged by its five year integrated LL.B. curriculum. This initiative led to the birth of the First National Law School at Bangalore in 1986 which was supposed to become the 'Harvard of the East' according to its sponsors. The success of the National Law School experiment was indeed a turning point in Indian Legal Education particularly in respect to academic excellence, social relevance and professional competence.^x

Third Generation reforms led by the Legislation

The changing demands of the legal market at the national and global levels:

1. The emergence of new technologies particularly in the communication sector.
2. The replication of the Bangalore model of National law schools in many more states;^{xi}
3. The increasing demands for legal studies from among highly talented students.
4. The regulatory system of legal education has changed with starting of Common Law Admission Test and All India Bar Examination etc. Another great decision has taken by the clat consortium committee i.e. to abolish the legal aptitude test which will attract more students to make a career in law.
5. Collaboration with foreign law schools and the influence of foreign educated lawyers.
6. Government willingness to finance law schools and improve faculty salaries.
7. The spread of legal publications like law reporting and legal awareness.
8. Law schools improvement in providing legal aid clinics and experimental education.

Three Decades of Reforms: Outcomes

The legal profession has been the monopoly of the male gender in the past. Now women are joining legal practice in numbers and are finding their places in the judiciary as well. The steady influence of people from the lower socio-economic strata to legal careers is changing the composition of the profession and strengthening democracy and rule of law in the country. Legal practitioners are finding lucrative ways to practice outside courts and litigation, compelling reforms in organisation, management and disciplinary control of the profession.^{xii}

On the negative side, one must mention the paucity of competent teachers even in the best of law schools to guide the growing body of motivated students. There are vacant positions in every law school. The Bar Association of India and Society of Indian Law Firms have come forward to address the shortage of teachers, offering to send senior advocates to act as an adjunct faculty in selected law schools. Everyone now realizes that unless the faculty position is improved the future of legal education is bleak and students with financial capacities will migrate to other jurisdictions for their education.

Future of Legal Education

The establishment of a network of advanced centres of legal research and training as recommended by the National Knowledge commission will help the lack of quality and research and promote a research culture in existing law schools. The Indian constitution enjoins the legal system to facilitate eradication of poverty, inequality in status and of opportunities and ensure justice to all in social, economic and political shares. The focus of the curriculum of the National Law School is entering to the private corporate sector with supplying trained graduates for corporate jobs, legal and managerial. The original objectives of setting up National Law schools were to supply well trained lawyers to the trial and appellate bar as well as for judicial service so that access to justice is enlarged and the quality of justice for the common man is improved and strengthened National Law University Patna has achieved a benchmark where at one go ninety plus students have qualified judicial services. This is the pathway for the development of legal education in throughout the country.

CONCLUSION

The legal education institutions established with following the new curriculum of global standard recognised by the Bar Council of India and University Grant Commission are becoming priority for India. Globalization of the legal profession has posed a serious challenge to the near future of the legal professionals. With this trend clinical legal education through institutional mechanism is the need of the time. The emergent need of the hour is to stress on transactional law training and clinical legal education programs is Indian legal education system for enhancing the democracy as well as providing skill-based training to law students and legal services to the people.

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Drawing support from the 184th Report of the Law Commission of India, 106 have recommended development of a statement of professional values and skills for Indian lawyers in order to focus legal education reform: property constructed, a set of values and skills along the MacCrate model, but adopted for modern India's needs, can serve to support the current movement toward legal education reform. They can also provide an underlying substantive basis for institutionalizing a social justice based clinical curriculum that is missing from the Bar Council's practical papers mandate and the Bar Council's practical papers mandate and the Law Commission.
- ^{ix} In February- March 1950 the Inter University Board as its annual meeting held in Madras passed a resolution emphasizing the desirability of having uniformly high standards for the law examinations in the different universities of the country in view of the fact that under the new Constitution a Supreme Court of India had been established and stressing the need for an All India Bar.
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