

LEGAL EDUCATION IN INDIA: DEVELOPMENTS MADE AND REFORMS REQUIRED

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Abstract

India's future will be fashioned in her classrooms. Law schools are the institutions that promote social engineering. The students are required to be equipped with a variety of physical, mental as well as technological skills for actualizing themselves and for being socially responsible individuals. While legal education in India has seen significant changes over the years, still the scope for improvement is wide. For the establishment of a law abiding society, legal education plays a vital role. Excellence in legal education and research is extremely important, because it will help shape the quality of the rule of law. Prior to the introduction of the five year law programme, the larger portion of the student population aspired to pursue the fields of engineering, medicine, computers, accounting and so on. Legal education as a discipline and law as a profession was not a popular choice amongst the students in India. The article discusses about the legal education system in India till 1985 and presents the picture of the education system after the advent of National Law Schools; the importance of legal education as well as reforms and modifications essential for the enhancement of the society have been highlighted. The article gives a perspective on the improvements that need to be undertaken. A well administered and socially relevant legal education is a sine qua non for a proper dispensation of justice.

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INTRODUCTION

Legal education deals with the learning of the techniques, skills, ideologies, philosophies, instrumentalities and the critiques aiding in the formation of a just society.¹ It is the education obtained by individuals in order to become legal practitioners or legal professionals. Unlike other types of professional education like medicine or engineering, legal education is both professional and liberal. If taken as a professional education, it aims at acquiring professional skills; but if regarded as a liberal education, it aims at a socio-cultural education, which is value-oriented. It is a highly important subject as it helps in creating and shaping the legal system of the country, which is responsible for the achievement of the treasured goals of justice, liberty, equality, fraternity of a sovereign, socialist, secular, democratic republic.² Blackstone also commented that the purpose of legal education is transmitting all the knowledge relating to the lifestyles and cultures of a common man, nobleman and gentleman in a single learned profession.³

Legal education is a broad concept. It encompasses law as a profession which is practiced in courts, legal research, law teaching, administrative activities in different divisions where law plays an essential role and also all the other activities and areas where legal knowledge and skill is required.⁴

The “rule of law” draws a line of differentiation between the human civilization and the animal world. Legal education plays a vital role in stimulating social justice. Legal practitioners and professionals are known as “social engineers”. Eminence in legal education and research is extremely important, because it will help improve the quality of the rule of law.

Legal education in ancient India began with the introduction of the concept of ‘dharma’. The King acquired special legal knowledge which he used in order to dispense justice. In modern India, formal legal education came into being in 1885. The chief aim of legal education at that time was to gear up the law students so that they could enrol themselves as ‘vakils’ or judicial officers in lower courts and high courts to help the administrators in imparting justice. In 1954, the 14th report of the Law Commission of India deliberated upon the status of legal education in India and realized the need for reforms in the legal education system and also made some recommendations. Advocates’ Act, 1961 brought uniformity in the Indian legal system. Also, after 1961, the Bar Council of India was entrusted to lay down the standards of the legal education system.

It was in 1986, when the first National Law School of India was established (National Law School of India University) in Bangalore, which started a five-year integrated law programme.

¹ U.G.C, New Delhi, Report on the Curriculum Development Centre in Law 12 (1990)

² Bharti, Legal Education- Some Critical Issues 122 (1999)

³ S. K. Agarwal, Report on Legal Education in India- Problems and Perspectives (1972)

⁴ Gajendragadkar Committee, Re-organization of Legal Education in University of Delhi (1964)

Knowledge of law enhances one's understanding of public affairs. It helps in preparing tactful arguments, studying accuracy of expression, understanding social values and interpreting written text. It is everyone's duty to know law because *ignorantia juris non excusat* (ignorance of law is no excuse). Legal knowledge is critical, not just for the creation of good lawyers, but also for creating law abiding citizens, who know what their rights and duties are. Law is an important mechanism in the socio- economic development of the society. We need a legal education system which can satisfy the needs of the society and the country. We are not a laissez faire state, but a welfare state and in a welfare state law plays a vital role in every person's affair.⁵

Law is not just an instrument of social control, but also a mechanism for social change. As far as the production of good lawyers is concerned, legal education should target at endowing them with legal proficiency and professional skills. Lawyers are independent professionals and are directly in association with the society and its problems. Thus, they are most properly acquainted with the problems being faced by the society.

Common law influence, the Constitution of India and the pivotal role of the judiciary have resulted in the development in the rule of law. But, in terms of implementation, there is still a long way to go. There is a blatant violation of law in India, hence there is a need to work towards creating a law abiding society. It is important that the initiatives taken should fundamentally endeavour to impart a respect for law among the citizens of India. All legal, judicial, constitutional and institutional measures taken to ensure rule of law must be taken with a sense to inculcate a respect for law among the people on the basis of the understanding that it would be executed equally and fairly. This is where the importance of legal education comes in. Legal education has a fundamental role to play in the formation of a law abiding society. Eminence in legal research and education is highly important because it will architect the quality of rule of law.⁶

OBJECTIVES

The objectives of the article are to:

- trace developments made in the field of legal education.
- study the shortcomings in the present scenario and suggest the necessary modifications required.

METHODOLOGY

The research is descriptive as well as exploratory in nature. Data collection has been done from reliable sources. References from various books, journals, reports and newspaper articles on legal education in India have been taken so as to ensure reliability.

STATUS OF LEGAL EDUCATION IN INDIA TILL 1985

⁵ Maxwell Cohen, *Condition of Legal Education in India*, 28 Canadian Bar Review, 249 (1950)

⁶ C. Raj Kumar, *Rule of Law And Legal Education*, The Hindu, July 4,2006

Legal education as a discipline and law as a profession prior to the introduction of five year law course was not a popular choice among the students of India; most students who performed good in the twelfth examination aspired to become engineers, doctors, accountants, business managers but not lawyers; there was a certain stigma attached to it.

The notion of Dharma during the Vedic era can be viewed as the inception of the concept of legal education in India. Just like any other institution in Indian civilization, legal education is under a continuous process of important changes in management, delivery, content and organization. It began with when the University Education Commission was set up in the year 1948, a committee named Bombay legal education was set up for the promotion of legal education.

The All India Bar committee made certain suggestions in 1951 as well as in 1954, the Setalvad commission discussed the legal education status and acknowledged the need for reform in the system of Legal education.⁷ It portrayed a very bleak picture of legal education. Major steps which were drastic in field of legal education were taken by the parliament in the year 1961 when it enacted Indian Advocates' Act which integrated the legal profession all over the country under uniform standards and created bar councils throughout the country with the authority to control and manage the standard of legal education in India, in sync with university teaching law.

The first phase of reforms in legal education followed after these events, which included LL.B. becoming a post graduate degree of duration of three years, there was an accelerated expansion of private institutions which were operating mostly as part time. But within the first two decades although access to legal education was increased, the quality was diluted very much which could not be controlled. The Bar Council of India began licensing and inspecting law schools but this did not have any marginal impact on the standard of colleges. It was only after much prolonged deliberations finally from the year 1979 the BCI issued instruction to all the universities and colleges in the field of legal education to adopt a new pattern of five year integrated law course and a period of three years was given to change over.

THE ADVENT OF NATIONAL LAW SCHOOLS

After nearly five years of serious thought and discussion with the universities, Legal Education Committee and State Bar Council recommended changing the existing three years LL.B. program to 5 year, and made few changes like the course of study for obtaining law degree shall be minimum 5 years out of which first two years shall be devoted to study of pre-law courses and the last 6 months of the fifth year shall include a regular course of practical training. Law College shall be located at a place where there is a District Court or a Circuit District Court, professional law education shall only be through whole time day colleges or University departments from the academic year 1982-83. The teacher student ratio was increased to 1: 40. The maximum strength of students in each class (LL.B I, II, III,

⁷ UGC, New Delhi Report of curriculum Development committee 1 (2000)

IV, V) shall not exceed 320, and 80 in any section of each such class. New colleges approved by BCI would commence professional legal education according to the above rules from the academic year 1982- 83. However, already existing colleges may be allowed to run the existing three-year LL.B. course for a period not more than two academic years.

In the year 1987 National Law School of India University was established in Bangalore. Many Universities failed to adopt the new pattern of legal education as envisaged by the BCI. The BCI succumbed to the pressures from the institutions offering legal education and failed to phase out the three-year program. Thus, it was forced to give further extension of 3 years course due to pressures from the Colleges and State Bar Councils.

In spite of extending time for converting the existing 3 year degree course to 5 years integrated course many colleges and Universities found it difficult to changeover. Due to pressure from the Colleges and State Bar Councils, the three year degree course continued even after 1987. As a result five year integrated course continued as a parallel course to three-year course and many institutions offer both the courses simultaneously.

There was a Curriculum Development Committee formulated in 2010, which emphasized upon the faculty autonomy in designing and conducting the courses in the University. CDC opined that the integrated law course with the first degree subjects is highly technical and therefore there is a need for harmonization of the curriculum. Further, the faculty of the institutions needs to make a serious effort to customize the course and develop the strategy of teaching-learning based on the local needs and resources available.

IMPORTANCE OF LEGAL EDUCATION

For the establishment of a law abiding society, legal education has a vital role to play. Excellence in research and education is very important as it will shape the standard of rule of law.

Another aim is to make students aware of legal concepts and methods of legal reasoning. Students also become informed with the process of law making, ways of settling disputes; they study the structure of government, how the courts work, how the system of adjudicating bodies and appeals work etc. Another aim of legal education is acquiring the knowledge of law in its social, political, economic and scientific contexts.

Dr. Mohammad Farogh in his observations on legal education in a modern civilized society wants to include the following aims and objectives:

- to inculcate students with the operative legal rules, both substantive and procedural,
- to provide the students with adequate experience to apply these rules,
- to equip the students with sufficient knowledge of the historical and sociological background of the country's legal system,

- to provide the students with some knowledge of the other legal system of the world so that the students do not find themselves at a complete loss when it comes to adopting a comparative approach.⁸

To produce a competent lawyer legal education plays an important role, the ultimate goal of legal education is to produce a capable lawyer who aims at achieving welfare of people and includes the defence of fundamental rights.

Law schools are the establishments that aid social engineering. This is indistinguishably linked to their role in building a society that abides by the rule of law. This can be done by investing time and attention in deciding what kind of a society India needs to develop and what would be the role of lawyers and legal education in that society, along with providing high quality legal education that emphasises on researching upon the legal and social issues that have an impact on the society. The role of law schools is extremely important, and they would be able to perform it if they are able to establish a sound institutional infrastructure which will vivaciously promote the intellectual and scholarly abilities of law students. Law is a dynamic education. The laws and their interpretations change with time so as to confront and solve the problems created by the social, political and economic changes in the society. Thus the role of law schools is significant especially in relation to the social expectations created and increased due to the disposition of law schools as organisations of higher learning and quality research.

SHORTCOMINGS IN THE PRESENT SYSTEM AND REFORMS REQUIRED

In order to get admission into any National Law School (NLU), the students have to crack an entrance exam namely Common Law Admission Test (CLAT). This test is conducted by a different NLU every year due to which there is a lack of uniformity in the way the test is conducted. This leads to a lot of confusion and raises issues for the students as to what is the marking scheme and what college will be allotted to them. There have been instances where the students have complained about the lack of transparency in the selection process which puts a question mark on the integrity of the whole system. There is a need to bring about uniformity in the system by setting up a committee which is not in any way linked to any NLU, which would conduct the test and maintain transparency. Also, interviewing the students should be included in the induction process so that the quality of students entering into this professional course is impeccable.

There should be an academic culture which promotes research. There should be greater opportunities for students and faculty of law schools across India to undertake serious and original research pertaining to justice and law that affect Indian society, this is only possible when an in depth examination of justice delivery mechanism and legal framework is done. This could result in useful recommendations which are suitable to the economic and social need of the citizens. Development and comparative research of institutional partnerships, with the other countries and as well as within the country are essential. This can help in

⁸ Dr. Mohammad Farogh, Legal Education: Contemporary Trends and Challenges (1998)

reforming the administration of law and justice in India, but in India it is a tall order. It involves a serious effort by various agencies including the members of parliament, bar and bench, academicians and the society in general. Moreover, law students can analyse the various problems relating to civil and criminal justice delivery system and its implications.

Indian society is facing problems relating to standardization of administration of justice because of unimaginable delay in justice delivery system and issues relating to poverty, governance crises and corruption, because of which the distance between the law in reality and the law in books is widening. If the Indian society is to soar from this challenge is it crucial that a law college plays a more responsible and active role. Scholars should be encouraged to develop research inputs relating to various problem areas for the better understanding of various institutions engaged in law transformation. Schools excel in giving judicature. This will be evident from the numerous national and international level judicature competitions being conducted in India. Participation in these competitions becomes prestigious to the law students. But sadly, few students are able to participate in these competitions. Remaining students participate exclusively in moot courts conducted by the law schools. Internal moot courts in several law schools are conducted by giving a decided case to a group. In these cases 75% of the students either copy from their senior's work or from the law journals.

In fact, the foremost objective of legal education has got to be promoting excellence in each teaching and analysis. However these objectives have to be consummated bearing in mind their relevance to and linkages with establishing a rule of law-friendly society. This state of civil and criminal justice system in the country, poses varied challenges and is far off from providing the much required religion and respect for law and legal establishments. Whereas each establishment has a very important role to play in guaranteeing the rule of law, law faculties have not as of now been seen as stepping up during this regard. It's time for law faculties and also the legal education discourse in India to embrace this responsibility, lest the religion of the scholars and also the school within the role of law and its impact on justice ought to be lost forever.⁹

Various challenges faced in field of legal education are increasing the presence of good and capable law teachers who can impart good education and can motivate the students; maintain a fine quality of law schools, which can produce good lawyers and law professionals, stimulating law students to choose various career options within the legal profession and sustaining good talent in the country.

The complementary teaching methodology of learning by doing and the conventional classroom teaching through the law schools helps in developing the advocacy skills in the law students. 'Mock' trials and moot court competitions, structured as court trials; client interviewing and counselling sessions; legal research, editing of law journals, legal drafting and convincing; court visits etc. in the curriculum are the ideal ways to facilitate performance based education. It is a means of improving in students the basic skills such as the skills of

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critical thinking, presentation skills, participation skills, teamwork skills, leadership skills, in addition boost in students the knowledge of law.

Law schools and universities should be able to provide e-courses on the shelves. The teachers should put course materials on the web, conduct on-line tests/assignments and grade students. Web-sites can lead learners to virtual class-rooms. Teachers and students should be oriented to look at the web as an information provider.¹⁰

CONCLUSION

Half a century ago, the chief objective of legal education provided by universities was inculcating the students the black letter law, that is, certain doctrines and provisions of law so that they could enter the legal practice for the local needs; not the teaching of law as professional and scientific subject that it is. Over the period of time, this perception changed and many reforms in how legal education should be imparted were made. While legal education in India has seen significant changes over the years, still the scope for improvement is wide.

The aim of legal education must be equipping the learners with competence and skills, the ideologies and philosophies for the establishment and sustenance of a just society.¹¹ It should sharpen the society to detect the problems it's facing, safeguard social and economical justice by the rule of law and annihilate injustice, poverty and corruption from the society. Legal education enhances human sensibility and infuses a sense of protecting liberty and equality before law. The curriculum of legal education needs to be decided in terms of the objectives that it aims to achieve.

Sadly, the general view is that the legal education in India is not very 'meaningful' and/or 'relevant'. The way legal education has been methodized in India appears like its only purpose is to inculcate the students about some knowledge of statutes.¹² Today, an inventive programme of integrated legal learning is needed in areas like comparative law, intellectual property, information technology, human rights, corporate governance, international trade law, environment law, alternative dispute technology and commerce.

One has to think within the contemporary model and bring forward the need for developing new avenues to the various challenges being faced by the society today posed by globalization, which should be computed while framing legal education system in a country like India, so as to cope with the present and future problems.

It is high time that the law schools in India recognize the need for establishing a sound physical infrastructure. The students will not be able to achieve the academic freedom to think and bequeath if the universities and college do not have the required infrastructure and financial resources. Philanthropy in legal education is rare. It all in all remains a state

¹⁰ Dr. Tabrez Ahmad, *Legal Education in Indian Perspective* (2009)

¹¹ Hassnat Azmi, *Legal education in India in the 21st Century* (1999)

¹² I.P. Massey, *Quest For Relevance in Legal Education* , 2 SCC Journal, 17 (1971)

sponsored enterprise or a mediocre profitable establishment lacking in high academic standards. There is a need for instigating philanthropic initiatives in promoting excellence in legal research and education in the country.¹³ There is a need to re examine the status of legal education in the country. The present system does not address the major problem faced by the legal education system – the dearth of faculty who are good teachers as well as researchers. Young talent should be encouraged to take up teaching as a profession as well. Also, the law schools in India need to create such an environment that promotes the students as well as the teachers to undertake serious research on the contemporary problems related to law and justice in India.

Rule of law is the most important challenge being faced by the country. The civil and criminal justice systems are under great stress. The role of law schools in transmitting legal education and developing lawyers who are analytical thinkers and social engineers is axial to the future of legal education and augmentation of a knowledge economy in India. Law schools and academia in India have a long way to go in developing an institutional culture that encourages research which has the ability to bring about positive changes in the society at large.¹⁴

¹³ C. Raj Kumar, *Improving Legal Education in India*, The Hindu, June 27, 2007

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