

## THE ROLE OF HISTORY IN SHAPING LEGAL SYSTEMS: A STUDY OF ITS IMPORTANCE IN LEGAL EDUCATION

- Dr. Puja Prerna\*

### *Abstract*

*The study of law is intrinsically linked to historical understanding, as legal systems are products of their time and context. This paper explores the significant role that history plays in shaping legal systems and its importance in legal education. By examining the historical roots of legal principles, doctrines, and institutions, the paper argues that a comprehensive understanding of law requires awareness of its historical development. Additionally, the paper examines how the study of history aids law students in interpreting legal texts, understanding jurisprudential evolution, and ensuring a fair and just legal process. It concludes by emphasising the need to integrate history into legal education curricula for the development of well-rounded legal professionals. This paper delves into the importance of history in the study of law, highlighting its role in shaping legal thought, institutions, and the overall legal framework. This paper advocates for a historical approach to legal education, urging the historical analysis of legal curricula to produce lawyers who are not only skilled in contemporary legal practices but are also deeply informed about the evolution of law through history.*

**Keywords:** Legal Education, History, Legal Profession, Court, Advocacy.

---

\* Assistant Professor @ Department of Law, Sarala Birla University, Ranchi (Jharkhand)

## INTRODUCTION

Legal systems across the globe are not static they evolve over time, shaped by political, social, cultural, and economic forces. The history of a legal system provides insights into how laws were formed, why they were created, and how they have changed over time. Understanding these factors is essential for a deeper appreciation of legal principles and the dynamics that influence them. Legal education, often perceived as an academic pursuit rooted in statutes and case law, can sometimes neglect the broader historical context that underpins these laws. In a broad sense, legal education is the process of educating people about the rules, procedures, and philosophy of law before they become advocates. Getting a law degree puts one in a position where he can stop someone from violating his human rights and understand how the legal system operates. In general, legal education is the process of teaching people the theory, procedures, and principles of the law before they start practising. It involves acquiring knowledge and skills related to a legal system, enabling individuals to become legal professionals and practice law.<sup>1</sup>

‘Practice of law’ means and includes:<sup>2</sup>

- a) practising before the Court, Tribunal, Authority, Regulator, Administrative Body or Officer and any Quasi-Judicial and Administrative Body,
- b) giving legal advice either individually or from a law firm, either orally or in writing,
- c) giving legal advice to any government or international body or representing any international dispute resolution bodies, including the International Court of Justice,
- d) engaged in legal drafting and participating in any legal proceedings and
- e) representing in arbitration proceedings or any other ADR approved by law.

A legal education empowers individuals to change the world and improve the lives of others. Many individuals don't know how the legal system operates or what rights and obligations they have. Getting a law degree puts you in a position where you can stop someone from violating your human rights while also understanding how the legal system operates. Students who study law are also better able to comprehend the laws that are established and how they relate to both themselves and other people. Studying law confers status and reputation, and people who work in the legal field are paid exceptionally well. All around the world, a legal degree is valued. Providing legal advice, researching legal issues, drafting legal documents, representing clients,

---

<sup>1</sup> Law is a system of rules created and enforced by social or governmental institutions to regulate behaviour, maintain order, and establish norms within a society.

<sup>2</sup> Rule of Legal Education, Bar Council of India, Section 2 (xx).

negotiating settlements, managing cases, and offering compliance and risk management advice are just a few of the many tasks and obligations that lawyers have. Successful attorneys possess a variety of traits, including strong analytical abilities, research and investigational skills, logical thinking, and problem-solving abilities. A thorough grasp of the law, its inception, development, and intricate relationships with societal dynamics requires a study of history. This historical perspective can inform both the practice and the scholarly analysis of the law.

**Objective of Study:** The objective of this research paper is to find out how the study of History, as a subject in Legal Education, is beneficial.

**Scope of the study:** This research paper will cover only the importance/ benefits of History as a subject in Legal Education in India and the relationship between History and Law.

**Method of Study:** Various legislation, books, journals, commentaries, reports, magazines, newspapers, websites, etc., have been studied and referenced as needed for this paper's adoption of the Doctrinal Method. This work was prepared using a variety of analytical, critical, historical, evaluative, and socio-legal methodologies.

**Importance of the Study:** Through this research paper, we will be able to learn the benefits of history as a subject in legal education and its relationship with law.

## LEGAL EDUCATION IN INDIA

Only after obtaining +2 standard education can a student in India join a legal course, such as an integrated five-year program or a unitary three-year program, after completing an undergraduate program in any field in order to become an advocate. Only after completing an undergraduate degree or +2 standard education can the Legal Education Centres offer legal education to the students. The Bar Council of India, New Delhi, a statutory organisation created under Section 4 of the Advocates Act 1961, oversees legal education in India. The Bar Council of India must approve the Legal Education Centre to impart legal education, and then the students can enrol as advocates after completing their legal education from such approved legal education centres.

The following various programs are running with the approval of the BCI, New Delhi, for the purpose of enrolling as an advocate:

- Bachelor of Laws (LL.B.) - The LL.B. is the most common law degree offered and conferred by Indian universities which has a duration of three years.

- Integrated Undergraduate Degrees - B.A. LL.B., B.Sc. LL.B., BBA. LLB., B.Com. LL.B., B. Tech. LL. B., B. S. W. LL. B. These degrees last five years.

Depending on their professional area and the particular demands of their customers, lawyers may have a variety of tasks and obligations. Providing legal advice, researching legal issues, drafting legal documents, representing clients, negotiating settlements, managing cases, and offering compliance and risk management advice are some of the typical tasks and responsibilities of attorneys. Successful lawyers have traits like strong analytical abilities, excellent communication skills, research and investigation abilities, logical thinking and problem-solving abilities, integrity and ethical judgment, a strong work ethic, perseverance, and dedication. Interpersonal skills, organisational and time management abilities, and the capacity to adjust to new obstacles brought about by evolving laws and technology. “Integrated degree course in law”, as mentioned above, means “double degree course comprising the bachelor degree in any branch of knowledge prosecuted simultaneously with the degree course in law, in such an integrated manner as may be designed by the University concerned for a continuous period of not less than five years.”<sup>3</sup> “The number of courses/ papers of liberal subjects in integrated programs must be 12 (twelve) as one major subject with two minors except for law subjects/papers. There may be six papers in major and three papers each in minor.”<sup>4</sup> For the B.A.LL.B. program, the above 12 courses/ papers can be from the social science, such as History, Sociology, Political Science, Philosophy, Economics, English, Psychology, Mathematics, etc.

## WHY HISTORY IN LEGAL EDUCATION?

History and law are closely intertwined. The study of history provides important context and precedent for understanding the development and evolution of legal systems, principles, and practices. The social, cultural, and political context in which law functions both influences and is influenced by it. Grasp the significance of law in forming and expressing the human experience requires a grasp of society’s history, norms, values, and relationships with societal developments. History helps us understand the past so that we can influence the future. History is more than a dry list of historical names and dates. It serves as a compass pointing to the future, a guide to the present, and a mirror reflecting the progress of our society. Studying the past helps one comprehend human nature and cultural patterns. History cultivates a common narrative and a

---

<sup>3</sup> *Ibid.* rule 2.

<sup>4</sup> *Ibid.* rule 6.

feeling of identity. History is essential for the development of analytical and critical thinking abilities.

The value of history lies in its power to elucidate past events, inform the present conditions, and guide future decisions. Through a structured analysis and application of historical context, one appreciates its role as an essential discipline. Some key ways in which History is related to law include:

- 1) The study of history examines how different systems and traditions have emerged and changed over time in response to social, political, and economic factors,
- 2) Analysing the historical context and rationale behind any law is crucial for understanding the reason behind the present law,
- 3) Understanding of history is vital for interpreting and applying the foundational legal documents,
- 4) Comparing the historical development of systems in different countries and regions can provide valuable insights into the diversity of legal traditions and the factors that have influenced their formation and transformation over time.

**Analysing Past, Present, and Future:** History offers a thorough account of previous occurrences that have a substantial impact on current social structures and future developments. Patterns seen throughout history have influenced civilisations, communities, and customs. Thanks to this study, people may learn from their past choices and comprehend the potential ramifications for future results.

**Role in Society:** Because it preserves the communal memory, cultivates knowledgeable citizens, and advances an appreciation of cultural and religious variety, history plays a vital role in society. Every one of these elements helps create a civilisation that respects its history while influencing its present and future.

Communities benefit from history by preserving a feeling of continuity and identity. Without this, civilisations run the risk of losing their sense of belonging and the linkages to common experiences that shape their values and customs.

**Strengthening Democracy:** A robust democracy is built on the foundation of an informed citizenry. History is very helpful in making citizens aware. Knowing the past gives students the background information they need to comprehend the present regulations and how they affect rights and obligations. Along with learning about historical events, they also learn how to

evaluate sources critically and identify trends that affect contemporary government. A student who has knowledge of History knows how laws and social norms change throughout time.

**Understanding Cultural and Religious Diversity:** History sheds light on the customs, beliefs and faith of the civilisations. Understanding the historical backgrounds of cultures and religions enables one to recognise the variety of viewpoints and customs that exist. This comprehension promotes tolerance and helps lessen disputes brought on by misinterpretations of culture or religion.

**Importance of Historical Context:** Historical events offer invaluable insights into the complexities of human experience, from the sobering repercussions of wars and conflicts to the transformative power of significant milestones. It guarantees a nuanced perspective of previous choices and acts in the context of their era and keeps them from making the same mistakes again.

History underscores the credibility of historical narratives and validates their relevance to current understandings. It fosters an awareness that present conditions result from human choices. History grounds students in the temporal dimensions of human experience. Educational systems globally include history to various extents, recognising its role in cultivating critical thinking and an understanding of how societies have evolved. The reason for including history in curriculums is to provide context for current events.

## **INTERDEPENDENCE OF LAW & HISTORY**

The relationship between law and history is profound and symbiotic. Historical events and social changes often necessitate legal reforms, while legal institutions, in turn, impact the course of history. For example, the laws governing property rights, contract formation, and criminal liability have evolved as societies have progressed, shaped by political upheavals, economic development, and cultural shifts.

- I. **The Origin of Legal Systems:** The origins of legal systems can be traced back to ancient civilisations. The Code of Hammurabi, for instance, is one of the earliest and most influential legal texts, providing insight into the legal structures of ancient Mesopotamia. Similarly, the laws of ancient Greece and Rome, such as the Twelve Tables and Roman law, laid the foundations for modern legal systems, including the common law tradition in England.

In India, the Manusmriti, Arthashastra, and other ancient texts provided a framework for law and governance. Colonial rule, however, brought about significant changes in these systems, imposing British common law, which has since become a cornerstone of the Indian legal system. Understanding the historical roots of law in India offers valuable insights into the current legal framework and its development.

- II. Colonial and Post-Colonial Legacies: The influence of colonial powers on legal systems is another important historical consideration. During the colonial period, colonial rulers often imposed foreign legal systems on their colonies. For example, British colonial rule in India brought the Indian Penal Code and other common law principles that continue to govern Indian law today. This colonial legacy shaped not only the law but also the way legal education is taught in many countries, including India.

The post-colonial era often involves the process of legal reform and indigenisation. In India, after independence, there was a strong emphasis on revising colonial-era laws and adapting them to meet the needs of a newly independent nation. The process of legal reform, however, remains heavily influenced by historical precedents and colonial legal structures.

## **IMPORTANCE OF HISTORY IN LEGAL EDUCATION**

Incorporating historical knowledge into legal education offers several advantages for law students and legal professionals.

### ***Contextualising Legal Doctrines***

One of the primary functions of history in legal education is to provide context for legal doctrines. Numerous legal precepts have a long history, including the ideas of justice, equality before the law, and property rights. Law students can better grasp how these concepts are applied in contemporary legal systems by knowing their historical background.

For instance, historical discussions over the distribution of power among the legislative, executive, and judicial departments of government had an impact on the creation of the American concept of judicial review. Similar to this, the foundation of the Indian legal system - natural justice - has its roots in ancient philosophical traditions, such as Aristotle and Kautilya's writings. A law student's comprehension and application of these concepts are improved by having a firm knowledge of their historical backgrounds.

### ***Understanding Legal Evolution***

Legal systems evolve over time in response to changes in society, politics, and culture. The study of history helps law students understand how legal systems have developed and why certain legal principles have been adopted, modified, or abandoned. This understanding is crucial for interpreting legal precedents and anticipating the future trajectory of the law.

The evolution of human rights law is a prime example. Human rights as a concept have their roots in historical events such as the Magna Carta, the American Revolution, and the French Revolution. The Universal Declaration of Human Rights, adopted by the United Nations in 1948, is the result of a historical process of codifying human rights principles into law. Legal education that incorporates the historical development of human rights law enables students to understand its relevance and application in modern-day legal systems.

### ***Interpreting Legal Texts***

Historical knowledge is essential for interpreting legal texts, whether they are statutes, case law, or constitutional provisions. Laws are often written in the context of specific historical events or social conditions. Without an understanding of the historical context in which a law was created, it is difficult to understand its meaning or intent fully.

For example, the Indian Constitution, which was adopted in 1950, was drafted in a particular historical context: the aftermath of British colonial rule, the partition of India, and the need for a cohesive democratic framework for a newly independent nation. The historical context of these events informs the interpretation of constitutional provisions, such as those relating to fundamental rights and the structure of government.

## **CONCLUSION**

The role of history in shaping legal systems cannot be overstated. Legal systems are products of their historical contexts, and understanding this historical backdrop is essential for law students and legal professionals. History provides crucial insights into the development of legal doctrines, the evolution of legal systems, and the interpretation of legal texts. As such, integrating history into legal education is vital for developing well-rounded legal professionals who can approach the law with a deep understanding of its historical roots and its role in society. Incorporating historical study into legal curricula will not only enhance the intellectual foundation of law students but also ensure that they are better equipped to navigate the complexities of legal



practice in a changing world. Legal education emphasising the importance of history will lead to a more nuanced and informed approach to law, one that is aware of the past while being attuned to the needs and challenges of the future.

### ***References***

1. Agarwal, S. (2016). *History of Indian Legal System*, Delhi: Oxford University Press.
2. Baxi, U. (2013). *The Future of Human Rights in India*. New Delhi: Eastern Book Company.
3. Choudhry, S. (2016). *Constitutional Design for Divided Societies: Integration or Accommodation?* Oxford: Oxford University Press.
4. Davis, K. C. (2017). *Discretionary Justice: A Preliminary Inquiry*. University of Chicago Press.
5. Tushnet, M. (2000). *The Constitution of the United States: A Contextual History*. Princeton University Press.