

# CHANGES IN THE LEGAL EDUCATION\*

We are here today, assembled in the premises of National Law

School but outside the class rooms, since the occasion is the opening of the administrative block and I would like to discuss with you something which is away from the strict law. I congratulate you my young friends, the students, who have been lucky enough to enter into the portals of this great institution. Shri M.N. Venkatachaliah, the former Chief Justice of India, told me, during a personal discussion, that next to the study of religion and philosophy if there is anything worth studying, it is the law. Nothing strengthens the intellect of a seeker of knowledge more than the learning of law. There is no other learning under the Sun which puts the wits of a man to test more challengingly than the legal profession. Once a person earns a qualification in law so as to claim himself to be a professional, his time, his intellect, his words and wisdom, his competence and capability become saleable commodities in the market. They are displayed on the counter like the latest arrivals and are purchased by anyone, who can afford to pay the price. A wise man once told me in a lighter vein that a lawyer cannot afford to eat two square meals in a day. The reason: if he fails to pick up, he is possessed of hardly anything to eat. If he picks up, there is hardly any time available when he can peacefully eat. The saner advice given to young lawyers is that, while learning the law itself, the young lawyers must develop a habit or an interest in a faculty other than law. Justice Frankfurter's advice, to a young man who wanted to join the legal profession, was that the best way to prepare for the law is to be a well-read person and by cultivation of the imaginative faculties like reading poetry and listening to great music. Homi Seervai, the great constitutional lawyer had love for literature and philosophy, apart from the law and he also enjoyed good music. Readings in classical literature give width to vision and develop faculties of imagination—both are indispensable to the success of a man of law. Music enables concentration and diving deep into introverted process of thinking. I have seen eminent judges and lawyers. In their study or inner chambers they have a music system in their work-table. They listen to music when they study in solitude.

Chief Justice Hidayatullah said in one of his talks relayed from All India Radio, Nagpur:—

“The study of Law has two aspects. Firstly, you study the law for its own sake as you study philosophy and, secondly, you study it to make a living. In the English Universities this distinction, between the intellectual and professional study of the subject, is well-recognised and maintained. In our universities this is not done. It is not realised that the study of the law can be an intellectual occupation and that Law is a branch of learning. Dr. Johnson said, “the law is the last result of human wisdom, acting upon human experience for the benefit of the public.” It is the crystallisation of the thought and habits of the society. There is a philosophy of the law and there are no limits to it. It is as one eminent thinker said “a bottomless pit”.”

*The traditional learning of law had no intensity and charm therein. The legal profession was travelled not beyond holding of a brief and pleading a cause in the court of law. Mostly the profession was considered to be hereditary – a son of a lawyer would choose law as a profession. Some of the lawyers were chosen for appointment as Judges. Mostly it was a matter of prestige and recognition to be a*

Judge from amongst the lawyers. Law schooling was a part-time activity, confined mostly to evening classes where regular attendance was not an insistence and very often the requirement of attendance was completed by good friends, obliging the absentees by answering the roll-call on their behalf. Law class was a branch of education with no practicals and no practical experience. Law graduates were churned out, ill-equipped in the art of advocacy and naive in professional ethics and values. A Committee, headed by Setalvad in 1958, painted a very dismal picture of legal education by observing:—“The main purpose of university legal education seems hitherto to have been not the teaching of law as a science or as a branch of learning but merely imparting to students a knowledge of certain principles and provisions of law to enable them to enter the legal profession”. Radha Krishnan Commission, on university education, stated in its Report in the year 1962 – “College of law do not hold a place of high esteem either at home or abroad nor has law become an area of profound scholarship and enlightened research”. Throughout the country varying durations of the course of study in law, two years or three years, were being followed. There was no entrance test. Often a candidate, having failed in securing admission anywhere else, would find himself lending in law classes with no aptitude or inclination for law. There were only part-time teachers in law schools or colleges with no building of their own and no libraries, also no regular classes. One or two class rooms in any educational institution were spared in the evening for law classes and a corner or an almirah in the library was set apart for a few books on law.

Strangely enough, in the field of medical science, engineering, architecture, accounts and audit and similar other disciplines, the student, conferred with a graduate degree was not only entitled but was also well-versed to embark upon practice on professional basis and with confidence. But so was not the case with law, until recently. While a young medical graduate could examine a patient, prescribe a medicine and perform a surgery, a young lawyer, though conferred a degree in law, may be with merit, would fumble while handling his first brief and dealing with his first client.

A few important events happened in the later part of previous century. The Advocates Act, 1961 assigned a prominent role, to the Bar Council of India, to play in the field of legal education. The Chief Justices’ Conference appointed a Committee headed by Mr. Justice A.M. Ahmadi (later the Chief Justice of India) with two other members, Mr. Justice B.N. Kirpal and Mr. Justice M. Jagannadha Rao (then the Chief Justices of Gujarat and Delhi High Courts), which strongly recommended for a five years law course to be gone through by anyone to earn a degree, entitling to practice in law. In 1988, came into being the National Law School at Bangalore, set up on the lines of American law schools which has now become a model for law schools to emulate.

Standing at the junction of the two millenniums, it would be very interesting to note the imminent changes in the law as profession, which are visible and perceptible. The winds of change are already blowing. I would like to share my perception of law as a profession, in the millennium which has commenced, under two heads: one, the content of the lawyers’ profession and two, the methodology.

The traditional lawyer stands uprooted. There used to be civil and criminal lawyers or the trial and the appellate lawyers. This branding is vanishing. The changes in the delivery of legal services are not to be confined to right of audience merely; they encompass legal education, the problems posed for legal resolutions and the organisation of court hearings. There are employed and self-employed lawyers; there are advocates and non-advocates; we have general practitioners and specialists. There are lawyers engaged in drafting work only, there are consultants and there are assisting advocates confined to table work only. None of these appear in courts. They need not learn the arts of oratory, persuasion, court craft and manners, pleasing to

the Judge which need to be found only in the arguing counsel or the counsel engaged for examining or cross-examining witnesses. The mode of practise would determine the learning and training which a legal practitioner should undergo.

Modern concept of legal education is to learn by bringing about proportionate admixture of reading, observation, participation and practice. No one can learn playing cricket merely by reading a book on cricket. He has to go out on the field, wield a bat and hit a ball. Somebody has to throw the ball and also do the fielding. Legal education must have such scholars as students who do not act merely as disciples but start thinking and behaving like a lawyer in the school itself. Though the subject of law is human being, the law education, so far, has been dealing with a two-dimensional projection of subject like a print on the page. The modern legal education proposes to accept its subject in its three-dimensional form, with flesh and blood and with emotions and difficulty. Law teaching and learning is not purely doctrinal; clinical experiences, extra curricular activities, skill courses and integration courses have to be a part of graduate learning. The law students must learn the substantive law, the procedural law and also the lawyers skills. An ideal course of studying in law is a combination of theory and practice, substance and processes, knowledge and technique. Of necessity, the legal education has to intermingle moral and ethical issues with legal issues so as to answer the needs of vibrant society. The traditional client used to accept the traditional lawyers as his friend, philosopher and guide but that would not be enough and a modern lawyer has to be a technician, endowed with capacity to translate the myriad problems of his client into the language of law and then apply his technical expertise, associated with practical wisdom to legally resolve the legally translated problem of his client.

I would like to tender a word of counsel to my young friends. Law, as a profession, is a very satisfying one. It fulfils your intellectual lust and at the same time provides immense opportunities of earning and shifting your status to the topmost of the society. However, your motto must be to earn by serving and not to serve by earning. My late father, an example of living idealism in legal profession, used to say – “Having chosen law as a professional career, if in the beginning, the entrant does not run after money, the day is not far off when money runs after the professional and the professional does not bother to count the wads, earned during the day”. In whichever field of law you may go, your motto should be ‘service’. Remember, anyone who approaches a lawyer with a problem is an unfortunate person, a victim of circumstances and, at times, an outcome of his own folly. He needs to be helped rather than to be exploited. If you are honest in your dealings and aim high, there would be no end to achievements. The profession is crowded undoubtedly. But there is always room vacant at the top. The crowd is only at the bottom. Therefore, aim high.

I am happy to learn about the contents and the methodology of legal education which is being imparted in this law school and the teacher-taught relationship which is being maintained. Here education in law is treated as a branch of philosophy and aims at achieving not only the learning but also the use of law as professional skills. Here law is not a logic merely; it is life's experience. The institution aims at not only satisfying the needs of education and research in the field of law but also meeting the needs of advanced training and applied research for economists, administrators, parliamentarians and advocates of the twenty first century.

The turning of the millennium has entrusted on shoulders of law school, the responsibility of imparting such legal education as can shape the lawyers to be fit to assume additional roles to arbitrate, conciliate, mediate, plan the policies, advice the businessmen, negotiate settlements, act as reformers and also arbitrate on intricate questions of science and technology if need be. The curriculum in law schools has to be so devised as to imbibe specialised knowledge and skills

hitherto not contemplated for legal profession. I would end by quoting Dr. N.R. Madhava Menon, the then Vice-Chancellor, West Bengal National University of Juridical Sciences (presently, Director, National Judicial Academy, Bhopal), from one of his recent articles. He says:

“the law curriculum for the future must provide integrated knowledge of a whole range of physical and natural science subjects on which legal policies are now being formulated. These areas include bio-diversity, bio-technoogy, information technology, environmental sciences, air and space technologies, ocean and marine sciences, forensic sciences, public health, petroleum and minerals related subjects, etc. Lawyers will be naturally called upon to specialise in assorted branches of legal practice as it is impossible to be a practitioner on all emerging areas of legal practice.

The image of a lawyer in society as well as the self-image of the profession is not what it ought to have been, given the diverse roles as stipulated above. A change is needed and it is important that the profession exists for the people and not the other way round. The way the profession is organized today also requires change to let a more rational distribution of work and to promote standards of efficiency and accountability. The way a lawyer thinks, acts and conducts himself will have to change if legal services have to be a powerful tool for justice in an unequal society/world. It is here that legal education has to take its lesson on value addition. Justice must become central to the law curriculum and community-based learning must give the desired value orientation in the making of a lawyer. To give a recent example, one can say that the young law students who went to the earthquake affected districts of Gujarat, seeking to carry legal services to the victims came back with impressions and experiences which would no doubt influence their professional life and shape their approach to justice. The idea, being canvassed here, is that professional education will have to be imbued with a spirit of social service and there is no better way of inculcating it except to expose them, while studying law, to real life experiences crying out for justice. The politics of legal education and the economics of legal practice should be subjected to academic scrutiny if the professional has to be saved from the practitioners themselves!”

I do not propose to administer you a heavy dose of a long lecture. I would end by quoting from the famous book – “As a Man Thinketh” – by James Allen. According to him, a man is literally what he thinks; his character being the complete sum of all his thoughts. “Thoughts guide our actions/Actions develop into habits/Habits build up the character/Character leads to Destiny”.

I hope – rather I am confident – that in this institution, under the dynamic leadership and guidance of Prof. M.C. Sharma and his colleague-teachers, you will learn the art of translating your thoughts into action and you will leave the portals of this institution, having learnt the magic of shaping your own destiny.



\* Speech delivered on the occasion of the inauguration of the administrative block on 19th February, 2005, at National Law School, Bhopal.