

## LEGAL EDUCATION IN THE PRESENT SCENARIO : THE EMERGING CHALLENGES

By

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It is quite heartening to note that users and managers of legal education are ready and willing to hear from Judges and advocates on its present state and condition thereby revealing their keenness in devising the ways and means of gearing it up, to meet the emerging challenges.

Deterioration of the legal education leads to the same malady in the legal profession, which in turns reflects on the Judiciary – because today's lawyer is tomorrow's Judge.

It was about a decade ago, that the Apex Court, per their lordships Justice *Kuldip Singh* and Justice *K.S. Paripoornam*, JJ., had observed in a case between – “*State of Maharashtra v. Manubhai Pragaji Vashi*” reported in AIR 1996 SC 1 as follows :

“It cannot admit of doubt that, of late, there is a fall in the standard of legal education. The area of deficiency should be located and correctives should be affected with the co-operation of competent persons before the matter gets beyond control. Needless to say, reputed and competent academicians should be taken into confidence and their services availed of, to set right matters”.

Section 7H of the *Advocates' Act, 1961*, I found that it provided for the Constitution of All India Bar Council and State Bar Councils. Besides other things, the Act entrusted the Bar Council of India with the task of *promoting legal education* and to lay down its *standards* in consultation with the *universities*.

*Neighbour's envy-Owner's pride.*

Let us now see the state of legal education in our neighbour country.

(1) “I think that we in *Pakistan* have not been able to achieve the targets of legal education.” – writes “Dr. *Mohammed Farogh Naseem*, (*Barrister at Law*) *Karachi*.

“The aims and objectives of legal education in a modern civilized society must necessarily include the following” he writes – (a) to inculcate students with the operative legal rules, both substantive and procedural (b) to provide the students with adequate experience to apply these rules (c) to equip the students with sufficient knowledge of the historical and sociological background of the Country's legal system (d) to provide the students with some knowledge of the other legal systems of the world – for comparative approach (e) to encourage the students to participate in discussions, *seminars* and challenge the very premise of legal concepts and their application”. He further writes” .... I think the main reasons for an inadequate and failing legal education in our country are the general apathy and skepticism of all most everyone. The Law colleges are not properly funded in view whereof the *library* facilities are not upto the mark and the teachers are not properly paid. Also the major Law colleges of the Country are not offering full time courses and are only running evening classes. However, the very crux of the problem is that ‘Law’ as a profession and ‘legal education’ as a discipline are not the popular choices for students in the large majority of the cases. Most students, who perform well in their intermediate education, aspire to study medicine, engineering,

computers, business management and accounting. It is usually the case that students, who are not able to find placements in these disciplines, consider studying Law as a matter of last resort.”

*The situation in our most friendly neighboring country : Pakistan is not in any way different from us !*

***There is no owner's pride-no neighbor's envy***

*But, is it not true that many such last resort entrants into Law colleges are faring extremely well in the legal profession ? How does this happen ?*

What is the remedy ? Let us see what remedy our neighbor country prescribed, because our headache is of the same variety as hers.

For a remedy, Dr. Farogh suggested an artificial mechanism of making study of Law attractive to the students by making legal education full time and raising the percentage marks required for admission in LL.B., and introduction of entrance tests and *reducing the number of seats* in the Law colleges.

He suggested improvement of examination standards. According to him questions should not be too simple, but set in such a manner that in-depth knowledge is necessary to answer them.

For instance, instead of straight away putting the question – “What are the three ingredients for grant of temporary injunction ?” the question should require the student to discuss – ‘Whether the ingredients required for the grant of temporary injunction provide satisfactory guidelines for the Court to come to a tentative conclusion ?’

If such types of questions are to be set, he felt that Open-book system can be allowed in examinations. Finally, he suggested that the students must have a very good

command over English language. Dr. Farogh's Article was published in AIR 1998 (Journal) 23.

***Coming back to Indian scenario –***

(2) Dr. Shoba Saxena, Asst. Professor in Law, JNV University, Jodhpur, in her essay “Legal Education : Modern Trends and Challenges” – published in AIR 1999 Journal 157 – also speaks of “*the last resort syndrome*” in the very same phrases as those of Dr. Farogh.

“The crux of the problem is that ‘Law’ as a profession and ‘legal education’ as a discipline are not the popular choices of the students in the large majority of the cases. Most of the students, who perform well in their plus two examinations, aspire to study medicines, engineering, computers, business management and accounting. It is usually the case that the students who have been unable to find placement in these disciplines consider studying Law as *the last resort*.”

(3) His Lordship Justice Markandeya Katju, now Judge of the Supreme Court, in his Article “Legal Education in India” published in AIR 2002 (Journal) 241, had observed that

“today the plight of the legal profession is a sorry one. In my opinion the main reason for this sad state of affairs is the kind of legal education which is imparted in our universities and law colleges... The student merely wants to get his Law degree. He is hardly interested in the subjects, so he crams up the stereotyped answers to the stereotyped questions – often from ‘the solved *questions and answers books*’ available in the market. *The teachers are also hardly interested* in the subject they are teaching. They are simply employees earning their bread and do not arouse a genuine interest in the subject in their pupils. The result is that Law, as taught in the LL.B course, is a *drab, dull, boring* subject. And the student wants to quickly get out of the Law College by getting his

degree..... Everyone knows that the teaching is dull, boring, mechanical and uninspiring and many students, if given an option, would prefer to read at home rather than attend classes and reason for this is that the subject is not taught from an historical and social perspective. This is because of our Law teachers are usually ignorant of history, sociology and other subjects. Without study of these subjects any study of law becomes a dull and formal exercise. In my opinion, this approach is wrong and will not produce the kind of lawyers the society and the nation needs for giving leadership to the people”.

(4) Dr. S.K. Singh, Reader, Rohilkhand University, Bareilly (UP), in his essay “Legal Education in India – some suggestions” (AIR 1999 Journal 168), observed that :

“the British started acquiring territories in which they established Courts. In the beginning, Courts were presided over by merchants who were having very rudimentary knowledge of Law, but later on, legally trained persons were put on the job. A few dismissed servants of the East India Company started to work as pleaders in the Court. Those who practiced Law were devoid of any legal training or any knowledge of Law. *They had adopted the profession in the absence of anything better to do.*”

*We find even today, a number of law students have adopted the profession finding nothing better to do.*

The author found fault with the legal education stating that question papers are set traditionally by following the previous year question paper.

His further observations were that- Most of the LL.B Degree holders do not know how to search a ruling in the reporters – Copying (or even mass copying) in the Examination is still prevalent in a substantial

number of Law Schools. At some places, students are told the answers by the teachers themselves in the examinations. Most of the examiners never read the LL.B., answer books. One can very easily spot one or two answer books in a lot of fifty, where not a single sentence is relevant to the question.”

(5) Dr. A.S. Raghunatha Reddy, S.K. University, Ananthapur – in his Article “Law Teaching Methods and Techniques – a critique with special reference to India” published in AIR 2001 (Journal) 73, discussed various methods of Law teaching like- One way traffic method- *i.e.*, lecture method (British method), case-study method (American method), interaction method, problem-posing method, adversary method, project method, clinical method (lecture hall to Court hall), roll-playing method, self-learning method (do it yourself-kit). Finally, he felt that the comparative method of teaching is the best method of Law teaching. The learned author stated that barring Delhi Law School, the situation of Law teaching in all other colleges in this country is pathetic and grim. He said that there is a mushroom growth of private colleges in our country and the conditions in these Law colleges are disturbing and alarming. They are ill-equipped, run on part-time basis and manned by part-time teachers. The teachers are actually engaged in fulltime practice and cannot devote much time to teaching; the colleges do not appoint qualified fulltime teachers for fear of having to pay them as per pay scales fixed by the Government. Even fulltime teachers are appointed on *ad hoc* payment basis. Students do not take legal education seriously and join the Law course for fun or time-pass and that too as a last resort. Examination system is mainly a memory test. Teaching advocacy is not a part of the curriculum. The learned author notes that the rule of compulsory pre-enrollment practical training for one year was struck down by the Supreme Court in *Sudbeer’s case* (*Sudbeer v. Bar Council of India*, AIR 1999 SC 1167), and

the Apex Court suggested in-practice training to enrolled advocates for one year. He noted with jubilation that the setting up of a National Law School of India University at Bangalore, which was sponsored by the Bar Council of India, as the first ever Residential Law University serving as a role-model or trendsetter, though the very high fees structure makes it a dream for rural poor students. He also rejoiced setting up of a *NALSAR* (National Academy of Legal Studies and Research), at Hyderabad. "It is laudable that Union Government has announced setting up of a Central Law School University in New Delhi on the lines of IIT's and IIM's to keep control on legal education in India as *Bar Council of India* has failed miserably in improving the situation".

(6) Justice *R.C. Laboti*, Judge, Supreme Court of India – in his lecture on "Legal Education and Legal Profession – an introspection", delivered at Jawaharlal Nehru Vidhi Maha Vidyalaya, Mandsaur (MP) published in AIR 2002 (Journal) 83 observed:

"The days are gone when taking instructions in law could be an evening part-time. There were part-time teachers. Attendance could be by proxy and learning by heart questions and answers from guides or solved papers, for a month or two before taking examination, could suffice for passing. Mostly, practice in Law was considered to be hereditary, where son having got a degree in Law would inherit his father's lucrative practice. Now, with the introduction of National Law School and five years fulltime law courses, Law is a specialized field of education. All good Law Schools and colleges have introduced entrance examinations where students are admitted by competitive test and on merit. Clinical education having been imbibed into course of study, a degree in Law dispenses with the need for practical training afterwards. A degree holder in Law is almost equipped to embark into practice, just as

his counterparts in medical profession, engineering or chartered accountancy. With the indulgence shown by the Bar Council of India, armed with statutory power given to it by the Advocate's Act, 1961, course of study in Law is so designed as to meet the requirement of those who wish to take profession seriously by aiming at becoming lawyers and not by chance. Education in Law is no more an option of last resort. It is now a coveted course of professional education."

A rosy picture in deed !

I would have been extremely happy if the above observation holds good in respect of the state of legal education all over the country. But, unfortunately, these observations hold good only for a few prestigious Law colleges.

Legal Education is no longer a classroom affair, in the light of globalization and the internet. Peter Martin of Cornell University of New York is operating Law courses through on line learning. E- MBA courses are already being offered on the internet. Very soon we may have E- LL.B or E- LL.M degrees.

So, we have Car garage Law Colleges, Standard Law Colleges and Prestigious Law Colleges and on line legal education.

### *What are the emerging challenges ?*

India being a signatory to World Trade Organization agreements – has to allow the entry of foreign Law firms and practitioners into the country.

Corporate Lawyer is in the offing.

Are our law colleges and their students prepared to meet the competition ?

Well, in most Indian States, the State of legal education leaves much to be desired. Of course, those qualifying from prestigious institutions like National Law School,

Bangalore, are already enjoying the privilege of Campus recruitments by reputed Industrial houses and the I.T. Industry. But they constitute the cream of the law students. But what about the large number of students at other Law colleges ?

If ill-trained, half-hearted students coming out from ill-equipped colleges join the legal profession, the legal profession which does not any longer enjoy the label of “noble profession”, will nosedive. Some of such advocates may adorn the Benches. They may simply ‘dispense with Justice’ instead of dispensing justice.

On 6-2-2005, there was a Seminar on “Deterioration of Standards of Legal Education –its reflections on the legal profession and the Society” held by the A.P. Bar Council at the NIT Auditorium, Warangal. I had presented a paper on the subject. In his concluding remarks, His Lordship Justice *Si Bilal Nazki* had comedown heavily on the utility of the prestigious Law schools to the common man. He said that students of such schools are invariably employed by the Multinational Companies and services of such talented young men are seldom available to the rural poor. India is not one, but two, he said “affluent India and *Gandhiji*’s India” – the later comprising of millions of people living in rural areas. According to him, it is only the products of such two-roomed law colleges, with all their poor language skills that are willing to serve the rural poor.

I was instantly reminded of the experience of the Peoples Republic of China where the concept of Barefoot Doctors was tried, during Red Guards’ days under the Chairmanship of *Mao Tsetung*. Doctors, instead of hankering to join sophisticated specialty hospitals, were advised to go to the masses.

The term ‘barefoot doctors’ was not considered as disparaging. I do not think that the experiment had succeeded in China. I will be happy to show that my opinion is

incorrect. Can we introduce and try the concept of ‘barefoot advocates’? In the initial stages of professional practice most advocates find it hard to buy a pair of shoes anyway !

I do not think that diluting the quality of legal education by allowing more number of ill-equipped “two-roomed colleges” would facilitate availability of inexpensive legal services to the rural poor.

Traditional economics tells us that if supply is curtailed, demand increases and so does price. Therefore, our friend from Karachi, *Dr. Farogh*, suggested that the number of seats in the existing law colleges may be reduced so that legal education would become very attractive.

But quite contrary to his suggestion, we, in our country have already increased the number of law colleges, manifold. So what do we do now ?

### *L.S.A. Experiment :*

The Lok Adalath Experiment which started in late 70’s was given a solid foundation with the enactment of Legal Services Authority Act, 1987. A mechanism for providing free and competent legal services to the weaker sections of the society to ensure “availability of justice for all” was evolved. Lok Adalath – holding whereof was started as an additional responsibility to the Principal Senior Civil Judge, to be held whenever possible, has, of late, graduated into regular permanent Lok Adalath with a full time, fully trained, secretary as its convener. This happened because of the success of the initial experiment and in order to answer the aspirations of the people.

Instead of thinking of barefoot advocates, a system of developing paralegal volunteers was evolved by the A.P. State Legal Services Authority, recently in August 2006, in furtherance of its policy of access to ‘justice for all’. Paralegal volunteers are to be drawn



and enrolled from among advocates, teachers, lecturers, Government Employees, field level officers of different Government departments and agencies of the State and Union Governments-cum-Students of Law and other disciplines, members of non-governmental organizations (NGOs), members of DWCRA groups, Aanganwadi workers, social workers, members of trade-unions and co-operative societies *etc.*, at the Mandal level “legal services committees” are being set up. The PLVs (Para-legal Volunteers) so identified are expected to be trained in relevant legal topics like Law relating to marriage and divorce applicable to Hindus, Christians and Muslims, minority and guardianship, dowry prohibition, protection of women from domestic violence, Consumer Protection *etc.*, These Paralegal volunteers are expected to immediately bring to the notice of District Legal Services Authority, all instances of transgressions of law or acts of injustice in their area of operation for effective remedial action by DLSA (District Legal Services Authority).

The concern for the rural poor has been thus addressed.

**Coming back to legal education in the present scenario and the emerging challenges** – Law graduates were hitherto needed by the judicial system – *to man its Courts and Tribunals*, the revenue system, *to man its administration*, and the education system itself, *to work as faculty members*, demand for Law graduates by business and industry was quite limited. The scope for joining the legal profession was always there.

With the advent of the new economic policy and globalization, the world has shrunk into a global Village. Industry and business in India have grown phenomenally and they continue to grow by metes and bounds.

“Business Today” – the glossy fortnightly magazines published by ‘India Today’ Group, had carried two cover stories in August and

September 2006 about the great demand for qualified graduates by the industry circles. In one cover story under the Caption “Soaring Salaries and Vanishing workers”, it has published statistics showing that barely after four years from now *i.e.*, by the year 2010 the Manpower Gap that would be experienced by various industries would be as follows :

I.T/I.T enabled services	:	5,00,000
Telecommunications	:	4,25,000
Construction and Real Estate	:	2,00,000
Hospitality	:	1,40,000
Life Sciences/health care	:	15,00,000
Energy	:	12,000
Electronics Manufacturing	:	75,000
Retail Finance	:	1,00,000

The article says that what is happening now is not a temporary gap between demand and supply – it is beginning of real scarcity of manpower. There is a real talent shortage as economy grows and diversifies. Our education system is geared only towards 3% economic growth – it says. Therefore, salaries are soaring for the talented persons and there is virtually poaching going on for them – one industry competing with another to hookup talented brains. All this is happening in the private sector.

So there is great demand for qualified persons. The future is brighter. But the paradox is *paucity amidst plenty*.

We have huge stock of Law graduates, but not of the quality that the employment market needs.

These are the days of multiple talents. We don’t buy a single and simple audio system or video system. We go for three-in-one, four-in-one or even five-in-one electronic gadgets. So is the case with the industry, be it I.T industry or any other industry.

Many of the growth industries including I.T industry are reaching out to the District headquarters in potential States and trying to figure out talented young men and women at the undergraduate level itself and trying to book them as their prospective managers *etc.* If graduates in other discipline can answer to their requirements, Law Graduates could equally do so.

Here are some suggestions for meeting the emerging challenges :

(1) Industry does not need a mediocre Law graduate, with some knowledge of Law alone. It is hunting for talent. Industry does not expect a Law graduate to be a good draftsman alone or a good Arbitrator or a negotiator. So, you have to be three-in-one, a good negotiator, arbitrator and draftsman.

(2) Communication skills are very much in demand. Fresh graduates with communication skills are being picked up by the Industry. You know even the jargon has changed.

If you say that you have your “bio-data” ready with you, you will be stared at. It is now called “curriculum vitae”. So you must have your “curriculum vitae” ready with you not “bio-data”. The traditional ethos in India forbids your beating your own trumpet. But in your curriculum vitae you have to present as rosy a picture of you as possible. Few more examples of new jargon are – “gap analysis”, “paradigm shift”, “vertical integration”, “brand-width”, “SWOT analysis”, “level playing field”, “win-win situation”, “core competencies”, “portfolio skills”, “empowerment”. This jargon is frequently used in the print and electronic media. This jargon is known as ‘management speak’.

American expressions have largely replaced the British equivalents.

Malcolm Burgees, the author of “500 reasons why I hate the office” published by Icon Books had written an interesting article

– “The trouble with jargon at work”. It was published in ‘The Hindu’ daily, a few months ago this year (2006).

(3) Even Law graduates desirous of joining the legal profession need to have multidimensional skills – patience, perseverance, persuasive skills, presentation techniques, preparation *etc.*, to be successful lawyers. Lawyers are expected to be fearless. But flamboyant advocate may not flourish. Bullying may not be fetching. A peevish lawyer may not be prosperous lawyer.

Therefore, even for joining the legal profession you need several talents. In spite of overcrowding, there is always room at the top. To be a successful criminal lawyer the first attribute required is speed and accuracy.

So, improve talent. Believe me, talents can be acquired. Caste has nothing to do with it.

True, these skills are found inborn in some persons. They seem to be heritable. Advocates practicing in the Supreme Court tell me how the sons or daughters of great Judges of the Supreme Court possess remarkable skills in the aforesaid areas of human personality. You can’t help if you do not have such genetic advantages. It does not mean that sons of great lawyers will necessarily prove to be great lawyers either. There have been unsuccessful lawyers-sons. Entry into the bar without possessing these talents is not barred. One can acquire these skills on the job by keen observation. You can have your ‘role model’. You can observe how different advocates conduct cross-examination, how they deal with different types of witnesses (the shaky witnesses, the sad witnesses, the humorous witnesses, the haughty and stubborn witnesses) and the way of presentation of arguments by various lawyers.

Thus Court-craft can be learned. If a host of talents required for success in the legal profession can be acquired after entering it, a host of other talents required for the industry

before getting entry into a job can also be acquired and taught in the Law colleges.

(4) *Know the exit route* : You cannot afford to be Abhimanya – knowing entry route only and not exit route.

Universal Law Publishing Co. has recently published a wonderful book on the life and times of Dr. *Kailasnath Katju* – with the title “Experiments in Advocacy”. There was a nice book – review about the book in “The Hindu” English Daily dated 18th July 2006.

Dr. *Kailasnath Katju* was none other than the grandfather of the Judge of the Supreme Court – His Lordship Justice *Markandey Katju*.

He (Dr. *Kailasnath Katju*) was the Governor of Orissa (1947-48), Governor of West Bengal (1948-51), Union Home and Law Minister (1951-55) Union Defence Minister (1955-56), Chief-Minister of M.P. (1957-62).

The great veteran has a piece of advice to new entrants in legal profession :

In a lecture at Allahabad University Law College Society, 60 years ago, on 6-2-1946, he said

“If you enter the profession, have a look round. My own feeling is this : that within five years every intelligent beginner in the profession should be able to decide for himself whether he can get on in the profession or not; or, to put it in other words, whether he is suited to the profession or not. Please don’t misunderstand me. If you find yourself in uncongenial surroundings don’t run away with the idea that you are defective or that you lack something. It is quite possible, far more likely, that you may find yourself above the profession. You cannot remain in a very rarefied atmosphere in the law Courts. It is a very earthy thing. You may find yourself very blunt, you may find yourself short

tempered, out-spoken. You may think that you cannot remain happy. Then I respectfully suggest, *cut it out*. There is no use wasting your time. Even if within five years you do not make a good start, then consider your position carefully. It is a matter for individual decision. In the quietness of your own room, unassisted even by anybody’s advice, you have to think it for yourselves – Am I good enough for this profession ? Does it suit me ? If you think that you have got the capacity, you have got the liking, you can put in the requisite industry and you can even seemingly – it does appear so sometimes- degrade yourself to the requirements of the profession, then I say to you Godspeed, you will win, you are bound to make a decent living out of this profession. But if you think that there is something amiss, no matter who is to blame, then I respectfully suggest, *cut it out*. Please go elsewhere. When I say this to my young friends, they say, “It is an extraordinary advice. What shall we do ? It comes very ill from your mouth. Here you are at the fag end of your career and your life. We have a family to maintain and you say go away”. But I tell you, this may be a surgical operation but it is good. There is no use going to the Bar library everyday and getting embittered and cursing the profession, cursing others who are getting on and placing the blame upon A, B or C. Please remember that lawyers exist for public, the public does not exist for the lawyers. Consider as if you had never passed the LL.B examination, make up your mind. Do anything you like. Either enter service, private service, commercial houses or any other. Nothing is more distressing than to come across young members of the Bar who have got no work, who won’t leave the profession, who come to Bar Library everyday, always having a look at the wanted columns, writing to their fathers-in-law or the wife writing to



her father, "Get my husband a job". If they were to go out in search of a job, probably they will get it. But having one foot here, another foot there, the result is disheartening. When you are 25 or 28, and you cut it out, you may be able to make good elsewhere. But at the age of 35 or 40 it may become absolutely impossible with a growing family and lessening energy. Anybody may be ready to give a man of 28 years a chance, but no one will give a man of 40 a chance, anywhere".

(5) Several new talents are required for the largest recruiting agencies *i.e.*, the industry and business. They can be included in the curriculum – The required talents are : communication skills (including body language), listening skills, leadership skills can be taught and acquired by conducting group discussions, project assignments and the like.

It is interesting to see that in spite of the great uproar that administration has to be done in Telugu Language and Telugu must be awarded the status of most ancient Indian language by the Central Government and the ire that Tamil language has already achieved that status and we are lagging behind, the Government of A.P. is reported to have recently taken a decision to introduce English in Class – I in primary schools run by the State Government. We have great respect for Telugu language, we take pride in being Telugu speaking people, which language is certainly an ancient language of India. We love to conduct our business in Telugu.

But, there is no escape from English, Indian students were the favourite catch of I.T industries abroad a few years ago and were preferred over students from non-English speaking countries like China and Japan for the simple reason that talented Indian students of computer sciences are very comfortable with English. But within no time the Chinese and Japanese students learned English and are now equally competent, if not more. Therefore, the advice of Dr. *Mohd. Farogh Naseem* (Barrister at Law) Karachi, to the Law Students of Pakistan, given in 1998 holds good for Indian Law Students too. All other writers on the subject have the same piece of advice to the law students- Improve your language skills.

His Lordship Justice *R.C. Laboti* had also underlined the need for improving the knowledge of English. He offered several more suggestions to the Law students for meeting the emerging challenges : (1) Knowledge of computers (2) Hard work (3) Realizing the value of time (4) Reading literature (5) Looking smart (6) Developing a hobby and finally (7) aim High

The last piece of advice reminds us of the advice of the President of India Sri *A.P.J. Kalam* – 'DREAM HIGH' and "WORK HARD TO ACHIEVE THOSE DREAMS".

This appears to be the panacea for all human problems and would certainly work for law graduates for meeting the emerging challenges.

### DECISION REPORTED IN 2006 (3) ALD 250 : PARTLY PER INCURIAM

By

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It was held by A.P. High Court in *Paras Ram Vishindas Rupani v. Bharat Sanchar Nigam Ltd.*, (BSNL), Hyd., 2006 (3) ALD 250 that

the benefit under Article 112 of Limitation Act, 1963 enures to a Central Government Company like Bharat Sanchar Nigam Limited