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Challenges of Legal Education in the 21st Century

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ABSTRACT

If we look to the higher education in India, it is something which is changing continuously and adopting new policies and methodology. It cannot be denied that it is specially the legal education on which a deep repercussions can be seen due to the globalization. After India got independence, the legal education had gone through many reforms but still have to work hard on it so that it can compete with the international legal education. This article will talk about the historical background of legal education and the present situation of legal education reform that are taking place in various Law Schools with in the territory of India. Further, this article will look to the effects of globalization and what are the possible changes required so that the present curriculum become more relevant and meaningful for the law students. This article also focuses on the challenges and issues related to the teaching method, practical experience and the assessments of students that are there in legal education. The paper will discuss the steps that are to be taken in order to attract better faculty and also to the governing role of the BCI in the arena of legal education.

Keywords: Legal education, India, globalization, higher education, curriculum changes, reform, Bar Council of India (BCI).

I. INTRODUCTION

If we think morally than we can easily understand that it is the religion or the Lord who made laws to control the life of the people on the earth. 'Rule of law' is the vital component by which we can differentiate between the human society and animal world³. Legal education plays a significant part to promote social justice in the society. Law experts are considered as 'Social engineers'.⁴ Students of India didn't choose law as a career and legal education as an area of study before introduction of the five year course. Law administers the world and its people and it is the crucial instrument of change. It has the ability to restructure the society and give

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³ <https://plato.stanford.edu/entries/rule-of-law/>

⁴ Dr. B N Mani Tripathi, Jurisprudence Legal Theory, 16th ed., Allahabad Book Agency, pg.49,

assurance justice to its people. It is considered as the basic element and facilitator of justice. It assists as an essential tool for achieving socio-economic growth in society. The most important function of law is to maintain peace and order in the society by securing the rights and liberty of the individuals and is, therefore, it is a basic element of society. The wellbeing of the society and the maintenance of peace and order depends on the democratic nature of the country, however, which is further depends on the law itself. It is the law which gives structure to the nation. According to The Law Commission of India legal education is a discipline which delivers understanding of certain codes and provisions of law which help the students to enter into this profession⁵. It is a training, ground and a platform to balance the rational and diplomatic settlement of disparities and treatment of conflicts.

In the present scenario the societies are developing and with its development legal education, law and the progress of the societies become an inter-related notions so that to develop the states into social welfare states and trying to advance the society and its economic condition. It is similar for India as well. India is a developing country and legal education plays a vital role in producing a lawyers who shared or have a common visualization. On the other hand, it doesn't confine itself to produce good lawyers but also in present time, opportunities in this field has increased, whose effect is clearly recognized in human life. If law is considered as a tool of social engineering than legal education can be considered as a tool of social designing.

Legal education development is taking place everywhere on the globe to make it more responsive than ever before to the legitimate need of the public-domestic as well as global and the knowledge needs of students to become professionally capable to play their character in our progressively symbiotic world. The emphasis of legal education restructuring in other parts of the world is an amalgamation of cross-border and universal dimensions of exercise with the prevailing course, with better emphasis on problem-solving, arbitration and international practice in the course and paired it with the customary curricular attention on lawsuit, use of new machinery and a greater use of clinical legal education for connecting the present gaps between philosophy and practice of law.

Ever since, law is considered as the foundation of every civilization and the countries across the globe. It does not only help in producing citizens who respect laws but also helps in making excellent teachers, idealistic adjudicators, amazing legal representative, and admiration-motivating law jurists.⁶ We consider law as a medium of public transformation and financial

⁵ According to The Law Commission of India legal education is a discipline which delivers understanding of certain codes and provisions of law which help the students to enter into this profession.

⁶ S. Sethiya, "Legal Education: A Need for Streamlining", 1 AIR (Journal) 1 (2008)

development and with the help of legal education the above four pillars are formed which helps and look after the improvement that took place in the society by advocating and supporting it. Its role is very critical as it gives the law graduates having communal idea in the developing countries like Bharat. However, in present time, its role is not confined in building performing lawyers only but also the opportunity and the domain in this field have expanded and the impressions of it can be sensed in each and every stage of life. In order to recognize the growth of the civilization in the society, one must look at the awareness and implications of the laws in the public.

II. HISTORICAL BACKGROUND OF LEGAL EDUCATION

The historical backdrop of law interfaces nearly to the improvement of human advancement. If we look back in history nearly to 3000 BC, we found an OLD Egyptian law, which were in the coded form and it is presumed that these coded forms of law was braked into **twelve** different books. It was by **twenty second century** BC, when a ruler named Ur- Nammu⁷ (*Sumerian ruler*) had defined the principal of law code, which consists of casuistic articulation. In order to make decent society, the Old Testament goes back to 1280 BC and appears as good objectives and proposals. Roman law was intensely impacted by Greek reasoning, yet its itemized rules were produced by proficient legal scholars and were exceedingly complex. Latin lawful proverbs were aggregated for direction. If we write the history of our independence moment neutrally than we have to provide additional sheets to the lawyers rather than to any supporter of any other ability. It is the well-acknowledged scheme that the Profession of Law is a decent profession and the fellows of the Legal Profession inhabit a very high position.⁸

Before lawyers start practicing in India, legal education teach them the procedure and the use of law. The normal practice which was followed in India by the traditional college was that they provide legal education only after someone has completed the undergraduate degree. It develops its motivation from the commercial, societal and governmental set up of the society. Legal education is a social science which equips outside methods, aids and capabilities the basic values, beliefs, reviews, and instrumentalities for the formation and conservation of a fair society.⁹

Legal historians record occasions of legal experts indigenously known as 'Pleaders' or 'Niyogis' on behalf of parties in a legal action at least from the time of Manu Smriti. There is

⁷ "The Laws of Ur-Nammu," JCS 22, 1968/69, 66-82.

⁸ Iyer, Krishna V.R. —The Social Dimensions of Law and Justice in Contemporary India – The Dynamics of a New Jurisprudencell, p.1.

⁹ Report of —The curriculum Development Centre in Lawll, Vol, U.G.C, New Delhi, 1990, p.12

dissimilarity of view on the exact role these ‘lawyer’ played in ancient times. The legal system in India is the regular production of its profound roots in early Indian traditions. It has occurred in India from the beginning of Aryan civilization.

III. CURRENT STATUS OF LEGAL EDUCATION IN INDIA

Legal education assembled motion and developed significance in independent India. When India got independence, a huge part of its population were uneducated and underprivileged. The immediate concern was to reduce discrimination and provide basic amenities to millions. As the people accepted the democratic form of rule, legal education was likely to carry the legal system in tune with societal, commercial and governmental requirements of the state.¹⁰ During the initial period of our freedom, the elementary apprehension for the legal system was to achieve the purposes established out in the Constitution. The Constitution of India principally set down the responsibility of imparting schooling on the States by placing the problem relating to education in List II of the Seventh Schedule.

To regulate legal education and profession, a statutory body known as The Bar Council of India was set up under section 4 of Advocates Act, 1961. After that, in the year 1985 for the first time, the first law school was established in Bangalore named as “National Law School of India University” and that was the time when LLB gradation was started in India. The technique of education was also started accompanied by seminars, conferences, moot courts and case methods. And subsequently, the legal education in India has been offered by the various universities. In present times the method has entirely changed and needs more lively education structure to contest in a global word with new ideas and research in the legal field. In the present day India is generating the biggest number of law graduates and about more than 50 institutions produce more than 5000 graduates every year. This number has increased over the years and there is a broad category of professional opportunities available to the students creating the future direction of legal education immense in India.

IV. GLOBALIZATION IN LEGAL EDUCATION

Multiple challenges have been posed by Globalization to the forthcoming of legal education but it has given a chance to contest the *status quo*, which is a very crucial condition for improvement. In India, the legal education is offered at different levels in the Universities and Law Schools. Primarily, only after completing the undergraduate course a student could pursue law but now with the change in time, anybody after completing the senior secondary education

¹⁰ Anand, A.S. J., H.L. Sarin Memorial Lecture: Legal Education in India — Past, Present and Future, (1998) 3 SCC (Bom) 1, P. 126

can pursue a legal education.

Globalization of legal study has turn out to be a worldwide development. Legal researchers employed in a specific country are not bound to investigate or study law and the legal system of that country or its neighbors. With the expansion of web-based research along with different online research tools, there has been an amazing alteration in the development of comparative and international law research. It is necessary for international law schools to have or to offer admittance to legal material from jurisdictions from all over the world. These need to be regularly modernized to keep up with the variable scopes of law in all civilizations. The need of the time is to endorse global connections, including a mutual and multidimensional exchange of faculty and students, with a view to support global knowledge connecting to law and legal organizations. For the accomplishment of the above-listed features require enormous resources. It is very difficult for the governments of the developing countries, like India, to fund them through public funding.

- Law Post Globalization

After post-globalization era, the study of law is no more restricted to Indian law. Due to the globalization, the student is introduced to a global course, global faculty and global communication with respect to legal education. Though, it comes with a whole lot of challenges. Along with classroom teaching, a practical exposure is must needed for the law students which is now focused by the universities and law schools.

- Right Internship

During the law study, internships are considered as one of the ultimate learning proficiencies in students life and now, due to the globalization, the move is towards global internships that will provide wider exposure to law students. Due to the small number of options, it is very difficult to find the right internship even in the first year itself. However, there is an internship and placement cell in most of the top universities and law schools across India which help students to choose the area of interest with a broad pattern of internship training for the different batches and courses. It works as a bond between the students of the school of law and the legal society. These committees provide internships and placement in the respective area of interest of the students. Different seminars and workshop are organized by these committees which will help students to make the most out of it.

- Technology Impact

With the globalization the situation has also changed as now, through video conferencing the

interviews are taken, there is a recorded classroom lecture along with online courses and live lecture. In order to support the transformation in legal education, all universities and law schools need to be equipped with the latest technology.

V. CHALLENGES IN INDIAN LEGAL EDUCATION SYSTEM

In 1958, when the Law commission expressed its worry at the worsening in legal education, there were barely forty-three institutions in the country making about twenty thousand law students for the law examination. After the enactment of the Advocates Act¹¹, it was observed that there was a huge growth of law colleges in the sixties and this occurrence remains unabated till date. The extent of mushrooming law colleges can be determined from the fact that up till the early nineties, there were four law colleges in Bhopal whereas there are twenty-two law colleges in U.P and Rajasthan.

- Deficient Infrastructure in Legal Education

At present we can put institution imparting legal educational in India in three tiers:

a) The law schools which has received Infrastructural grants along with huge land grants from the State and established by the Act of State legislatures commonly known as **National Law Schools**.

b) **Traditional law colleges**, which was established under the Trust Act affiliated to State University. In these type of colleges, there are very few colleges which obtain salary grants from the State government and the majority colleges are non-granted.

c) **Private University and Deemed University law colleges**, these are the colleges which don't receive state endowments and are self-financed.

Firstly, the scientific lab, legal aid cell, computer lab, moot court room and linguistic lab ought to be established in the institutes. Essentially, these are the basics provisions of Five Year law course set-up as per BCI norms¹² too. But setting up of integrated five-year law colleges are so costly that a number of increasing institutions could not even satisfy the basic necessities of building structures and an adequate number of law faculties. However, the institutes themselves are deficient with the accessibility of common factors, it is very hard to be in the compatibility of global lawyers and scholars.

Secondly, if Indian law schools have to come across the requisition of the moving international society, the exercise we communicate to our law students should be systematically reviewed.

¹¹ Advocates Act, 1961

¹² Bar Council of India (Education) Rules, 2008

The law schools in India needs some arrangement and capitals equivalent to international universities, predominantly when the faculty and the students of country got admission to such campuses. It also need to pursue an intense alteration in order to provide such arrangements and the resources to our faculty and students. The presence of library and its facility need to be noticeably advanced, for which massive means have to be mobilized. Certainly, the resources that are required to touch universal criteria for providing worldwide infrastructure for our law schools have to be upraised through library donations and private donations.

- Teaching Faculty

One of the key concern is the unavailability of qualified and proficient teaching faculty in law colleges of India. It is no wonder that due to the small pay package, the institution is unable to attract good full time faculties which leads to the downfall of reputation of the most of the institutions. Further, the motive behind establishing such colleges is only to gain profit, hence they purposefully do not pay much to their faculties. Consequently, unqualified and part time teachers are there in such institutions who are employ with the class only in the dusks that too in a very careless style.

A certain amount of enthusiasm is necessary in legal education from the side of teachers as well and the amount of education and knowledge that student get and the amount that they absorbs depend on the way the teachers clear the doubts and guide them and the amount of time they are available with the students which is not possible if they are a part time faculty.

Despite of a compulsory minimum entry-level requisite ***national eligibility test*** to become a law teachers, many law colleges appoint them who do not even clear the eligibility test. These colleges do not have acceptable selection criteria for the appointment of law faculty and this help those faculty to gain a year experience before they can apply somewhere else.¹³

Among them, some of them are government supported, they appoint least faculty by lowering the expenses that can acquire maximum profits out of the circumstances. In spite of a number of references and proposals, the lecture technique remains the process of teaching in most law colleges.

- Outdated Curricula And Syllabi

It have been constantly requested to the Universities by the UGC and the Bar Council to revise the syllabus but it is of no benefit. Moreover a struggle is always found to introduce a fresh and modern day subjects at the cost of concentrating on customarily essential and simple subjects.

¹³ K. Singh, Legal Education in the New Millennium, 31(1) Indian Socio-Legal Journal 103, 108 (2005).

The changing role of law is not reflected in the program and the training does not take into account the social engineering abilities which are commanding in an enthusiastic lawyer today. The new pattern which the Bar Council seeks to recommend confront this issue by providing for a pre law school study period of two years by studying such social science subjects which are related to law. In order to include some policy oriented multi-disciplinary courses, the number of noncompulsory courses has been increased and finally a practical teaching session for 6 months has been approved.¹⁴

- Drastic Differences Among Law Colleges

Though India claims that there are some reputed ***national law schools***, than we have a large number of organizations which present themselves as a law colleges and provide degrees without worrying about the appropriate education that should be given to the students. *Consequently*, the superiority of these students from various organizations is enormously diverse because of the severe discrepancy in the magnitude and the kind of education they obtain from there.

- Making Law Students Expert Learners

What the law colleges have failed is to train the students to be a skillful learners. A more operational formative assessment in doctrinal course, the skill to be a lawyer and clinics may be used in order to better prepare students for the practice of law. The formative assessment process is used by the teachers to improve the meta-cognitive skills of law students so that their learning can be transferred to the new and novel situations that they face in the practice of law.¹⁵

- The Legal Research And Writing Instructions And Technology

“Legal Method” as a subject course is not announced in 3 year law course in some of the universities but it is compulsorily taught in all the 5 year integrated law courses. The instructions in this course needs to be enhanced.¹⁶ The development of computerized legal research method such as use of LEXIS and WEST LAW will be taught to the students.

VI. SUGGESTIONS & CONCLUSION

Legal education is an asset which, if intelligently made, will produce a record positive results

¹⁴ N.R. Madhava Menon, *Reflections on Legal and Judicial Education* 78 (2009).

¹⁵ Robin K Mills, *Legal Research Instruction In Law Schools the State of the Art*, 2nd Edn, ILI, New Delhi, 2001, at p. 633.

¹⁶ Anthony Niedwiecki, *Teaching For Lifelong Learning: Improving The Metacognitive Skills Of Law Students Through More Effective Formative Assessment Techniques*

for the nation and help in accelerating the speed of development. The law is considered as a power of society and it is an important medium of revolution. Medical problems are dealt by the doctors, any technical problem is dealt by the engineers, similarly any problem related to academic matters is dealt by the teachers, but the all problems of the entire society is dealt by the lawyers. There is no doubt that there is a drastic change in the legal education from the last 10 years but in order to make it more effective and justice oriented, some reforms are there which still need to take place.

The establishment of National Law School after the independence helped in development of the legal education in India with a strong pledge to advance prevailing legal infrastructure. There is no doubt that these universities and law schools have also point the crucial changes in syllabus and structure to cater to the new generation of lawyers.

In present legal system there are some issues which we have to repair such as having a trained faculty, introducing law subjects at school level so that students will have a basic knowledge relating to law, importance is given to the research and publication activities etc. It helps in the development and the growth of legal education which further increase the reputation of this profession.

The ever growing demand of the society should be able to meet by the legal education and should be systematically equipped to furnish to the complexities of the diverse circumstances. It is necessary to have a specialization in different branches of law. In order to fulfil such a great demand a substantial and a vast number of person is trained every year offering a proper legal education which is only possible if the universities and the law schools have a good infrastructure with expert law faculty and staffs. Before any matter goes beyond control, the area of insufficiency should be traced and with the help and support of the capable person these deficiency should be removed. In order to produce honest judges, hardworking lawyers and distinguished jurist than we need a faculty who are dedicated and are capable of producing these things. Teacher are considered as a nation builder and to produce such students they must be committed and devoted.

At last it can be concluded that instantaneous solution in this regard is something which is not imaginable at the same time following the old traditional method will be suicidal in coming days. Therefore, in order to change the legal education in India a balance should be made, keeping in mind the necessity of the globalization.
