



Legal Education in India: Opportunities and Challenges

DR. RAJESH S. VYAS

Principal,

Shri N. S. Patel Law College, Modasa, Dist. Sabarkantha
Gujarat (India)

Abstract:

“Law alone cannot secure freedom of expression in order that every man presents his views without penalty there must be spirit of tolerance in the entire population”.

- Albert Einstein

Legal Education is the life line for a lawyer and has to haunt through the pages of books, journals throughout his life. Justice Dr. Arijit Pasayat Judge, Supreme Court of India has said that, the importance of legal education and its impact on the future generation of lawyers has not only relevance at present but also in future

The study of law must, therefore, be of that quality and standard as would justify pound's description of a professional. However, there has been immense criticism of the system of legal education in India which having a direct impact on the quality of the bar.

Since Law is the foundation of every society or a nation, Legal Education of the people is a sine qua none. Legal Education not only creates law-abiding citizens, but also produces brilliant academicians, Visionary Judges, astounding lawyers, and awe-inspiring jurists. Since law is a means for social changes and economic progress, since these four classes of men acts as catalyst for the growth of the society, the creation of these four groups of men should be the aim of the Legal Education

New Changes in the New Millennium: Law as well as know is ever developing and is never static. New areas and fields of Law are discovered and it is very important that Law students should be made aware of the recent developments in the field of Law. One such branch of law, the importance of which has not yet been fully recognized by the law school and universities in India. Is the law of IPR, Compendious courses on the law of Copy Right, Trade Marks and Patents are offered in a few law schools as optional courses like this Law and Medicine , Corporate Laws. Forensic Science Laws are also new one for law students. It is essential that a greater emphasis be paid to these new branches of law.

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1. Introduction

Legal Education is the life line for a lawyer and has to haunt through the pages of books, journals throughout his life. Justice Dr. Arijit Pasayat Judge, Supreme Court of India has said that, the

importance of legal education and its impact on the future generation of lawyers has not only relevance at present but also in future.

Vidhya (Learning), Knowledge and education are essential for the growth of every nation and civilization. Without these three, no civilization can exist or progress. Education not only transforms the brute within us into learned men, but it also provides the tools for the progress of the people, the society and the nation.

The study of law must, therefore, be of that quality and standard as would justify pound's description of a professional. However, there has been immense criticism of the system of legal education in India which having a direct impact on the quality of the bar. The ' basic structure ' of the legal system is an unarguably the area of Legal Education as only after acquiring the same do people become advocates and judges subsequently. Thus, the law university or the entire body of law students determine the quality not only the Bench and the Bar but affect largely the legal system. The Bar and the Bench are not reflection of the prevailing Legal Education scenario

Thus the quality of the Legal Education system is an imperative determinant of the legal system which ultimately comprises of the Bar and the Bench.

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2. History of the Legal Education

It is a historically accepted fact that even as back as during the Vedic times India had an intricate and comprehensive legal system. Thus, it is no surprise that the concept of legal education in India goes back to the Vedic age when it was based on the concept of Dharma. Though there was no formal education to impart law, which can be understood as such law there was Karma and Dharma was the basic grandeur for every living individual. Training was self acquired in matters connected with Karma. The kings either used to dispense justice themselves or appoint Judges and assessors to administer justice.

The pattern of Legal Education which is in vogue India today was transplanted by the Britishers after the establishment if the English rule in the Country. It was in the Year 1857 that a step was taken in the direction of imparting formal Legal Education in the country. Three Universities set up in the cities of Calcutta, Madras, and Bombay formally introduced Legal Education as a subject for teaching. This was the beginning of Legal Education in India.

The importance of the study of law as a discipline came to be recognized soon after the British. The British introduce laws along the pattern of laws in the United Kingdom. These Laws were in English and the proceedings of all the courts right from the lowest to the highest were also in English. Since more then 60% of Indian people lived in village and were largely illiterate, they encountered difficulties in responding to the law court.

Thus, simply speaking, the need to have advocates was felt and along with it came the responsibilities to have specific institutions to impart requisite professional skill. The gap between the people who were unacquainted with legal proceeding and the justice delivery system could be bridged by engaging a person qualified to practice law as the advocate.

With the march of time, new demands emerge, which sometimes make the existing system absolute or non-functional, requiring it to be replaced by a new one. Law should also respond to the demands of the society. In India, a change in the legal climate has never been as desired as it.

3. Need and Importance of Legal Education

Universal declaration of Human Rights, 1948 declares that human rights should be protected by rule of law so as to avoid the man resorting to rebellion against tyranny and oppression. The rule of law includes the principle that every citizen should have a guarantee of effectively defending himself for protection of his fundamental rights. In a court of Law, such effective cannot be possible without a specialized impartial profession to plead for other citizens. Every citizen cannot be expected to know the laws. In modern day, the proliferation of enactments by legislatures is so vast that by the time legislation is enforced completely, the object with which it was made either vanishes or is lost. All the citizens are laymen when it comes to knowing the law.

Mr. Justice Southerland of U.S. supreme court in Powell v/s Alabama. Emphasized the need a person with skill in Law to plead for others.

“Even the intelligent and educated layman has small and sometimes no skill in the science of law. If charged with crime, he is incapable,

Generally, of determining for him whether the indictment is good or bad. He is unfamiliar with the rules of evidence. Left without the aid of counsel, he may be put on trial without a proper charge, and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he has a perfect one.

He requires the guiding hand of counsel at every step in the proceeding against him without it, through he be not guilty, he faces the danger of conviction because he does not know how to establish his innocence. If that be true of men of intelligence how much more true is it of the ignorant and illiterate.

The Supreme Court of India also recognized the importance of a person skilled in law. It was observed in Sukdas v/s Union Territory Arunachal Pradesh as follows.

“Even illiterate people do not know what are their rights and entitlements under the law. It is this absence of legal awareness which is responsible for the deception and exploitation and deprivation of rights and benefits from which the poor suffers in this land. Their legal needs always stand to become crises oriented because their ignorance prevents them from anticipating legal troubles and approaching a lawyer for consultation and advice in time and their poverty magnifies the impact of the legal troubles and difficulties when they come.

Moreover, because of this ignorance and illiteracy, they cannot become self-reliant; they cannot even help themselves. The law cases to be their protector because they do not know that they are entitled to the protection of the law and they can avail of the legal service programme for putting an end to their exploitation and winning their rights.”

4. Administration of Justice and Law Colleges

Administration of Justice and judicial process in India is founded on Anglo-Saxon and Anglo-American model. The law permitted a man to plead in court on behalf of another. A well-informed and skillful lawyer would provide effective and satisfactory service to a client who can afford to pay. An indigent person, therefore, necessarily deprived of best and effective legal services of a well-informed lawyer. How true it is, that no modern society values human rights would survive without professional advocates. The importance of lawyers not only lies in serving the cause of the litigants, but also in the fact that they form the inputs for the other products and by-products of justice delivery system.

The lawyers are appointed as judges, Government Law Officers, Legal Advisors, and some of them even become teachers in Law Colleges. It would be therefore, truism to say that in the administration of justice, lawyers and Law Colleges, which train Law Graduates, have an important to play. All the same, they have also important role in the judicial process.

The legal education has been a subject matter of serious concern of the Nation ever since the first Government Law School was established in Bombay in 1855. the subject was examined by Calcutta University, Commission of 1917-1919, The University Education Commission-1948-49, (Prof. Radha Krishnan Commission) , The Bombay Legal Education Committee of 1949, The All India Bar Committee of 1953, The Rajasthan Legal Education Committee of 1955 and The Committee of the Judges appointed by Chief Justice of India as resolved by conference of Chief Justices, 1993.

In 1993-94, a Committee of Justice A. M. Ahmadi , Justice M. Jagannadha Rao and Justice B.N. Kirpal was constituted by the Chief Justice of India in accordance with the resolution of the conference of Chief Justice, 1993 to suggest appropriate steps to be taken in the matter of Legal Education. So that the law graduates acquired sufficient experience before them became entitled to practice in the courts.

The Committee further noticed the falling standard in Legal Education and quoted the observation of Justice Ahmadi.

“Since all law teaching is undertaken by the University and College affiliated to Universities, and since a recognized University law degree is in itself sufficient qualification for entry into the profession, a heavy duty lies on those who manage the affairs of the Bar Council of India to take appropriate steps to enhance the prestige of the legal profession by ensuring high quality Legal Education”.

Therefore, from the days of teaching law as specialized subject in specialized colleges. It is universally accepted that the Indian Legal Education system has produced few internationally know ‘expounders of Jurisprudence’. We failed to produce great jurists though the legal

profession was able to produce freedom fighters and the men like Gandhiji and Nehruji. Any effort to solve the problem should first diagnose the problem and identify the areas. Which require concentration. We have a polity guided by written constitution aiming at Equality, Liberty, and Justice to all. Equality and Equal opportunity can only be achieved by dispensing equal justice and social justice. The law college and the legal education should aim at educating these by inculcating a sense of social services, if necessary by change of syllabus.

In this context, we need to refer to observation made by the Supreme Court of India in State of 'Maharashtra vs. Manughai Pragaji Vashi'.

“The need for a continuing and well organized Legal Education is absolutely essential reckoning the new trends in the world order, to meet the ever growing challenges. The Legal Education should be able to meet the ever growing demands of the society and should be thoroughly equipped to cater to the complexities of the different situations. Specialization in different branches of the law is necessary. The requirement is of such a great dimension that sizable or vast number of dedicated persons should be properly trained in different branches of law. Every year by providing or rendering competent and proper legal education. This is possible only if adequate number of law colleges with proper infrastructure including expertise law teachers and staff are established to deal with situation in an appropriate manner. 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 cooperation of competent persons before the matter gets beyond control. Needless to say that repeated and competent academics should be taken into confidence and their services availed of, to set right matters.

5. Legal Education as Justice Education

After independence, Legal Education in the country should have undergone a complete transformation so that Legal Education and legal profession could translate the ideas enshrined in the Indian constitution into a reality and thereby achieve justice, social, economic and political. The task was not taken up at the right time, to fit in and to nurture the constitutional philosophy of social justice. Legal Education and profession since then has lagged much behind and to a great extent has not even been able to play its role as an effective means of providing justice.

“Legal Education” as 'Justice Education' in the new millennium has to prepare the law students to become the 'Frontier men' of Legal Education. It is responsibilities of law schools to liberate Legal Education from its limited vision and to prepare them to place their skills at the service of the people. This social push will produce changes in the life of the common man.

In the present times there is a need to bring law close to the people and to appreciate, to understand and solve the problems of the child, women, the downtrodden, the weak, the weakest and also the under privileged sections of the society. There has to be a radical change not only in the thinking of budding lawyers but also in the way they look at their profession and implement the law. Unless it is achieved, the goal of social justice will be a far cry. In this direction the role of law school becomes important and pivotal.

The present day crises of Legal Education are that in our society the very existence of legal system is being subjected to criticisms. Legal system are being challenged and faced with

quarries like does it bring justice? Does it serve the needs of the people or is it only protecting those who wield political and economical power? Is there law protects and promote the class interest of the privileged few?

Law school can no longer afford to remain a silent spectator of the suffering of the masses. Time has come that they learn to fight for suffering of the masses and the under privileged by playing an active role in mitigating injustice which poor people suffer in the present socio-economic environment.

Law schools have to wake up and take the challenge and devise means and tools to make law an instrument of socio-economic change. The students of law now have to know what poverty of the people is, how people still survive on half a meal or on discarded food. Why people face the winter with their blood. Why are they still subject to untouchability and many more social maladies and inequalities? Law school should wage a war against socio-economic exploitation of the neglected masses.

6. Efforts to improve Standards

The committee of three Judges of 1993 appointed by the Chief Justice of India made the suggestion inter alia recommending strict standards while recognizing and granting affiliations to law colleges. It also recommended the following:

- a) There must be an entrance examination at the stage of admission to the Law College in University to the affiliated colleges.
- b) Five year system of law course after Intermediate course (10+2) should be introduced in the entire country.
- c) Professional ethics must be made a compulsory subject.
- d) Case method must be made compulsory and must carry more marks than theory and necessary steps should be taken to supplement the lecture method. The case method would require modern techniques of importing Legal Education. The method should also include problems methods, moot courts and mock trials etc.
- e) The student's visits to courts must be made compulsory to provide greater exposure.
- f) The examination methods should be changed and norms are to be fixed not only for maintaining quality of question that are set, but also marks to be awarded for evolution of question papers.
- g) The Bar Council should give license to a law graduates only after 12 months to 18 months apprenticeship with entrance examination. Each state should establish National Law School type of colleges.
- h) To improve the standard of legal education we need to adopt two pronged strategies. Firstly to establish reputed law Universities and college. Secondly, to control the overnight mushrooming of 'Law Colleges' in the towns and cities. For ill -constructed, ill- equipped and ill-staffed "Law Colleges" cannot produce top-notch legal brains. Such confectioneries can churn out only half-baked lawyers. Like quakes, half-baked lawyers are a threat not only to a legal system but more importantly to the litigants, the masses.
- i) The BCI and the Bar Councils of the states have a pivotal role to play in implementing these two-pronged strategies. Section 7 (1) (4) of the Advocates Act, 1961 imposes a duty on the BCI "to promote Legal Education and to lay down standard of such education in

consultation with the Universities in India importing such education and the state Bar Council.”

- j) Moreover, the syllabi at the law colleges are in need of drastic changes. Law is Omni present lawyers have to be Omnipotent. Law graduates are no longer confined to the academia and the Law courts; they are in the Boardrooms of corporate offices, in the Administration, and various other fields.
- k) Thus, instead of just teaching law as an academic subject, an inter-disciplinary approach should be introduced. As in the National Law Universities, the Law Colleges and Universities should teach at least one semester of economics, sociology, anthropology, literature, music, fine arts, psychology, medical science especially human anatomy, forensic science, and information technology. Language is the fundamental tool of lawyer, the judge and of the jurist. Thus, command over the language and the art of oratory has to be emphasized. Without a Foundation in these areas, the education of a law student is indeed incomplete.
- l) Young students need inspiring teachers. Poorly education and poorly trained teachers can neither ignite the legal brains, nor take the legal eagles to new summits. Further, many of the law colleges do not have full time faculty. The tendency to have part time or to have guest faculty should be discouraged. For a permanent faculty allows the students to interact with the teachers more often than not.
- m) Furthermore, teaching methodology also needs to be change: instead of just lecturing to the students, a more inter-active system of research papers and discussions, presentations and conferences and moot-courts should be encouraged.
- n) Besides brilliant teaching staff, the Law Colleges needs to display a well-stocked library Libraries should not only be shocked with books and magazines, but also with the latest computers and software. The students should have access to information, to knowledge, which is fast growing the world over.
- o) These are the basic tools that are required in the new legal system.

7. New Changes in the New Millennium

Law as well as know is ever developing and is never static. New areas and fields of Law are discovered and it is very important that Law students should be made aware of the recent developments in the field of Law. One such branch of law, the importance of which has not yet been fully recognized by the law school and universities in India. Is the law of IPR, Compendious courses on the law of Copy Right, Trade Marks and Patents are offered in a few law schools as optional courses like this Law and Medicine , Corporate Laws. Forensic Science Laws are also new one for law students. It is essential that a greater emphasis be paid to these new branches of law.

India has a very narrowly based intellectual property bar and judicial understanding of Intellectual Property Law and justice is both limited and shaky. Both from the stand point of human resources development, modernization and justice it is important that the I.P law be given the attention and importance it deserves.

Another very important branch of law which has been fast developing is private international law. Initially after independence, we were drawing guidance from English private international law and even today; we do it often, but a distinct determination that we have to develop this

subject on our own. The law students must be familiarized with subject and function utility and the importance of private international law should be made know to them.

The legal community is a vital component of this society in this country and it has played a leading role in the movement of independence and it has an important role in fashioning the shape of things in most of the countries after independence.

The need of amend the laws governing corporate sector and the fiscal laws has been felt. The legislation or administrative measures aimed at deregulation, simplification, better flexibilities have been brought about to provide a congenial atmosphere for competitive environment and economic liberalization. Fiscal policies have been moulded.

Simultaneously various law-fiscal, corporate, Patent and technology laws have been changed quite substantially. The recent amendment to Companies Act is one such step which seeks to ensure better corporate governance blended with better accountability and to develop an investor friendly environment.

The world of science and technology is changing a breathless pace and with it, the world of trade and commerce, both internal and international where constant change is a continuing phenomenon. At such a crossroad of human destiny, our ability to meet these changes needs foresight and wisdom. Economics, Scientist, Technologist and industrialist have to work in unison. Need for rapid and persistent up gradation in the scientific and technological knowledge is imperative in the present economic scenario.

Environment Law has also assumed a great importance. Right to have a clean environment is not only treated to be a fundamental right under Article - 21 of the Constitution of India, but also treated to be human right. Beginning from the Stockholm Declaration in the year 1972, International charter and convention have come to stay wherein great importance had been laid on sustainable development and maintenance of ecological balance.

Another important aspect which may be taken note by all those present here is to develop a workable model where there is coordination among the law college and the universities and those who man justice delivery system in matter of standards, prescription of syllabus and curricula and legal training. Such a model would go a long way to help achieve the constitutional goals of equality of justice and liberty.

Conclusion

With an era of globalization, it is true that the country will have a technological push but along with that an ethical push is also imperative for any civil society. Unless steps are taken to strengthen public good through a responsive legal system sensitive to a poor people needs justice is going to be a far cry. Reaching the unreached and including the excluded within the domain of justice should be the goal of real Legal Education in the country. The Legal Education have to respond to the call of justice, social, economic and political; today, tomorrow may be too late and let us all not forget, there is very narrow line between anger and hunger. The students of law who are future lawyers have to be prepared for a special role in the society. They have to be

prepared and moulded to be good advocates, judges, good legislators and above all good human being so that they are able to...

1. Understand not only the legal rules but also this socio-economic and political background in which they are framed.
2. Understand judicial, legislative and administrative institutions and their true role to the society.
3. Understand a lawyer's skill not only of investigating, interviewing, drafting and negotiating but also of helping, counseling and mediating etc.
4. Understand the problems of common man and be concerned about them.
5. Understand their duties not only to the clients, to the fellow lawyers but also to the society and specially the underprivileged.
6. Understand law and also come out with suggestions to reform it so that the law becomes more humane.
7. Understand the importance of skill-oriented Legal Education programmes like Legal Aid, Para Legal Service etc.
8. Understand the importance of imparting training to paralegals for bringing legal awareness in the society.
9. Understand the problems of the poor, the deprived and handicapped, the downtrodden and the under privileged so that in them the poor man finds a true friend and a real helper.

This is how the law schools have to make constant endeavor for preparing sensitized advocates who are dedicated servants of humanity and who are in words of Justice V. R. Krishna Iyer “Development lawyers”

It may be asked, than what to do, the answer is simple, “do whatever you can to promote Human Rights through Human Rights Education. The beginning should be made here at Law College from where all of us and likes of us came from.

“The character of law schools determines the Character of the Bar”.

- Chief Justice Black Stone

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