

The Changing Dimensions of Legal Education System and Its Challenges in India

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Abstract

Creating legal professionals whose training matches the best in the world is an immediate need for a country that is growing by leaps and bounds. With growth and development comes the need to have legally trained professionals who can rise up to the new challenges posed by an ever-growing economy. On the other hand, legal professionals are also needed to advance the cause of social justice in the country. Although social justice was one of the goals of creating a new nation, the nation has still failed its destitute. It was with this experience that NLUs were set up in the country to groom lawyers as social engineers who would rise to the occasion and fill the gap of quality legal education in the country. However, largely there are many other interventions needed to improve the quality of legal research as well as practice in the country. The intervening jurisdiction of both the Bar Council of India as well as the University Grants Commission has also resulted in a lack of centralized planning and vision. Increasing grants for research, attracting well qualified faculty and setting up new research centers are some of the steps that could be taken in this direction.

Keywords: Indian legal education, National Knowledge Commission, National Law Universities, Legal research, University Grants Commission, Bar Council of India

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INTRODUCTION

Up until independence, legal education in India was limited to a few schools in the country. It is only after India gained independence and the evolution of the doctrine of rule of law that legal education gained importance in India [1]. In the preamble of our Constitution the ideals of social, economic and political justice galore and yet these would be impossible to achieve if we do not have well trained professionals to deal with the new challenges that the field of law throws to us. It is in this light that legal education system has been a priority, when it came to government policy, as dissemination of justice is impossible without the necessary manpower that is skilled enough to disseminate it. Hence a few years after independence, need was felt to reform the structure and pattern of legal education in the country. Law was looked upon as a tool for catering to the socio-economic needs of the country [2].

The first development towards restructuring the legal education system post-independence was the appointment of the University

Education Commission under the Chairmanship of Dr. Sarvapalli Radhakrishnan. It was set up “to report on Indian University Education and suggest improvements and extensions that may be desirable to suit present and future requirements of the country” [3]. The Commission while emphasizing the role of legal education also lamented the erstwhile state of legal education in the country. It said that in the context of its findings, the condition in law schools is generally very bad. It identified that in a few universities the authorities did say that the functioning was satisfactory, while as in most of these institutions the authorities acknowledged the need to make further improvements [4].

It further went on to claim that our law institutes are not held in any high repute either inside or outside the country. This state of affairs of our legal education system was further emphasized by the Law Commission of India under M.C. Setalvad in its 14th Report which was on ‘Reform of Judicial Administration’, in the year 1958. The

Commission while analyzing the state of legal education said that since the ten years that elapsed since the publication of the Radhakrishnan Commission the position in regard to the legal education system had only deteriorated [5].

In the light of these developments, the Parliament deliberated on the issue of reforms in legal education system and passed Advocates Act, 1961, which set up the Bar Council of India (BCI). Under Section 7(h) of the Advocates Act, Bar Council of India has been given the mandate to *'promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the state Bar Councils.'* Section 7(i) says that the Bar Council shall have the power to recognize institutions where the degree of law could be imparted, which would enable the graduates for qualifying as advocates. In addition to this, the council could also visit and inspect these institutions to maintain the required standards. Further, under Section 49(d) BCI is mandated to make rules for the maintenance of standards of legal education that are to be observed by universities throughout India. Hence, other than the central and respective state governments, BCI is one of the main regulators in the legal education system. The other one is the University Grants Commission (UGC) [7].

Even after this the evolution of the legal education system remained largely unsatisfactory. BCI tried to bring reforms to change the curriculum of legal education many times in order to mend the flaws in the legal education system and to tailor it according to the changing needs but failed, because, as of then, law was taught only in multidisciplinary universities, which were under the general supervision and control of UGC. Hence in these circumstances BCI couldn't be very effective [7].

On the recommendations of Legal Education Committee, in 1984 BCI took some major breakthrough decisions in order to make legal education more diverse as well as attractive as a career choice. It started a new five-year course for students who had just passed out of

school. Up until then, only medicine or engineering professional courses could be taken by students directly out of school. This move by the BCI made law also as a career option straight out of school. Through competitive and selective admission, improved and updated curriculum, different teaching methods, compulsory programs of practical training and strict adherence to norms and standards laid down for law schools, the whole regime of legal education saw an upside-down revolution [8]. This course was first imparted through National Law School of India University, Bangalore, which was the first National Law School set up in the country. Under its statutory mandate to maintain standards of legal education given by Advocates Act 1961, BCI introduced the concept of National Law Schools. These were institutes which later developed into universities that were established solely for the purpose of imparting professional legal education. As a result, the BCI has much more direct control over their functioning. Thus, these institutions served as a 'pace setter' and a ground for experimentation in the legal education system [9]. The establishment of NLU system is unquestionably the greatest achievement in the course of providing quality legal education in our country [10].

CHALLENGES BEFORE THE INDIAN LEGAL EDUCATION SYSTEM

Despite recent reforms, the National Law Universities only form a very minuscule part of Indian legal education system and the standard of education even in all the National Law Universities (NLUs) is not uniform. In the larger context, we have 550,000 enrolled students in about 900 colleges, university departments [11] and 18 NLUs. Much of the reforms have not reached or percolated down to the grassroots levels. As the erstwhile Prime Minister, Dr. Manmohan Singh, put it that despite having a few 'dynamic' and 'outstanding' law colleges they are still 'islands of excellence' in a sea of mediocrity that has been institutionalized over time [12].

Still in the larger picture, Indian legal education system lags far behind global standards. Mushrooming of law colleges has

taken place haphazardly with very poor infrastructure and poor research facilities [13]. It is in this light that the Supreme Court of India in *Unni Krishnan v. State of Andhra Pradesh* in 1993 laid emphasis on the fact that education cannot be allowed to be merely commercial [14]. Some even debate that the advent of NLUs has not translated into higher quality legal academics [15].

Add to it the fact that with liberalization, the whole scenario of legal studies and research has changed and there are new demands in the legal sector. Legal education has to meet the need of trade, commerce and industry in the context of growing internationalization of the legal profession [16].

Hence the two main challenges that our legal education system faces today is:

1. Low standard of academic and professional training; and
2. Changed needs of a globalized legal profession.

Now these challenges would be discussed in detail before going into their possible solutions.

Low Standard of Academic and Professional Training

Despite the fact that NLUs have arrived and are striving towards a much improved and up to date legal education system, it has not exactly translated that way. This is mainly because law schools have to comply with both the UGC as well as BCI, this makes reforming the system very difficult [17]. Add to this the fact that the Indian teacher's conception of law is still typically a static one [18]. The lack of holistic reform continued even after the law school system was introduced [19]. Research incentives and creation of avenues where teaching law becomes an attractive job are still abysmally absent. While these concerns remain unattended further mushrooming of NLUs, whose number is proposed to go up to 24, is fairly unwise. NLUs also face problems in financing as in the words of current Vice Chancellor of National Academy for Legal Studies and Research (NALSAR), Hyderabad, Faizan Mustafa, 'most NLUs are not

universities in the strict sense as they are still not fully funded by the state' [21].

Moving away from NLUs and back to the ground, it is no secret that most of the legal education is imparted in non-NLU institutes. Their situation is much worse. The rapid growth in the number of law colleges has also further deteriorated the standard of legal education [21]. There is often very less or no infrastructure for research in the newly established law colleges [22]. Further, the Justice Ahmadi Committee nominated by Chief Justice of India to suggest appropriate steps to be taken so that the law graduates acquire sufficient experience before they become entitled to practice courts in its report accepted that the quality of law colleges as well as the students in these colleges was deteriorating continuously. It was further emphasized that the syllabus in law colleges was not up to the required standard to send good quality lawyers to the Bar. Besides this, the teaching standards in the colleges as well as the level of discipline was also severely criticized [23].

On the research front too, there has not been any great progress of late, as the National Knowledge Commission puts it: "*there is need for original and path breaking legal research to create new legal knowledge and ideas that will help meet ...challenges in a manner responsive to the needs of the country and the ideals and goals of our constitution*" [24].

Add to this the fact that clinical and Alternate Dispute Resolution (ADR) also needs to be incorporated in the curricula of law schools as recommended by the 184th Law Commission Report [25].

Changing Needs of a Globalized Legal Profession

As the National Knowledge Commission states that legal education '*should prepare the students to meet the challenges and dimensions of internationalization, where the nature and organization of law and legal practice are undergoing a paradigm shift*' [26], it is important to understand that with liberalization of economy in 1991, the field of law and legal services has completely transformed. With this transformation has

come the need to cater to new demand of the legal market.

This crucial issue has also been taken up by the 184th law Commission report, which has stated that globalization, deregulation and privatization have given rise to 'new challenges'; in this context it recommended that specialized areas of law like intellectual property, corporate law, human rights, ADR and international business transactions have to be introduced to law schools [27]. In this view, the report also recommended a diversified curriculum wherein interdisciplinary studies would take place [28]. With the ever-changing developments in science and technology and the evolution of law, as a consequence basic knowledge of technology is also necessary for a lawyer to survive the pace of modernity.

In consequence of international integration of law due to growing relations between different parts of the world, subjects like international trade law or international arbitration law have gained importance. So, the curriculum needs to be expanded accordingly. There is also a need to understand global legal trends and have a basic cultural understanding. As example, a country catering to such needs is South Korea where international laws of UK, US, France and Germany were introduced in the local law curriculum, more than 10 years ago [29].

Add to this the high probability of entry of foreign lawyers into India, keeping in view our commitments under GATS to minimize trade barriers. This could result into a situation where the Indian lawyer would find himself wanting and unable to attend to internationalized aspects of law even within the country.

Research is also needed to fill up the new spaces in evolution of law in the international spectrum and thus make capital out of a knowledge economy.

Legal education today is not just meant to take a student to the bar or bench only, it has become a much more diverse avenue wherein corporate legal advisors, public officials, civil society activist, academics, legislators, arbitrators come from the legal backgrounds,

as such, there is need for diversification of the syllabi, if we have to match the international standards [30].

SOLUTIONS

Raising Academic Standards

As the National Knowledge Commission (NKC) puts it, legal education has outgrown the mandate provided to the Bar Council of India because at the time when the Advocates Act was enacted it was envisaged that legal education would produce only lawyers for courts and it is in such accordance that BCI had been given the authority to promote legal education and lay down the minimum standards of legal education for students who are 'entitled to practice' [32]. In order to restructure the legal education system, it is essential that discipline, academic excellence, research and infrastructure for research of law colleges be evaluated from time to time and accreditation be given or taken away accordingly. As was suggested by the NKC a rating system may be introduced which would rate law schools on these parameters and based on this it would from time to time be decided as to if a law degree of a college is to be derecognized, or a new law college is to be given affiliation. This would ensure quality of legal education throughout the nation.

On an equally important point, the duality of control between the BCI and UGC is also problematic, in the control of the law schools and their curriculum, the 184th Law Commission Report to this effect has recommended that Section 7(1)(h), which prescribes that BCI consult universities imparting legal education, be amended to the effect that it prescribes BCI to consult a body which effectively represents all the universities and that such a body be constituted by UGC, through an amendment of UGC Act, 1956. This would be called the 'Legal Education Committee' [32]. This would create a bridge between BCI and UGC whereby they would function through a common mechanism and in sync with each other.

In this view, BCI does not have the power under Advocates Act nor the expertise to meet new global as well as domestic challenges. So, it advocates the setting up of a new regulatory

body to deal with all aspects of legal education and to cater to the needs of a globalized world. It would consist of 25 members including eminent lawyers, members of BCI, judges, academics, and representatives from trade, commerce and industry as well as social workers, students, etc. At the same time, BCI would however continue to exercise its powers to recommend standards for practice in courts and discipline for members of the bar. Justice A.R. Lakshmanan, former judge of the apex court also supports this view [33]. However, when the central government tried to take a step further and introduce the Higher Education Bill, which was aimed at handing over the accreditation policy to the National Accreditation Regulatory Authority, it was met with much criticism from BCI, which claimed that BCI's powers were being unnecessarily curtailed [34]. The Law Commission instead has recommended that BCI and UGC come up with a common mechanism of accreditation of law colleges [35].

Changes to curriculum are also needed; it is necessary that the syllabi be in tune with the changing times. As such as per the recommendations of the 184th Law commission report, ADR system should be made compulsory in LL.B. course [36]. At the same time, NKC has recommended a committee that would be formed of faculty and practitioners and based on student feedback it would decide the curricula of law schools. It also pitches for more autonomy to law schools and NLUs in departing from the 'model' syllabus. Stress should be laid on contemporary subjects and disciplines and law must be taught along with social science and scientific knowledge to know its correct import and consequence. It also advocates that legal education must be socially engaging [37]. Importance should be given to Clinical legal Education as students will inculcate more knowledge through experience and see the role of law and legal in society along with acquiring necessary professional skills [38]. Also, in attainment of social justice it is important that judicial education inculcates that importance of obligations under Part IVA of the Constitution 'as if this is all there is to the idea of Indian Constitutionalism' [39].

Bettering the Examination System

The examination system must be problem-based and more practical. The Law Commission has recommended that 75% of the questions be practical or application-based while 25% be theoretical [40]. This will surely enable students to apply law to situations much more quickly in real life and get a taste of practical aspect of law in real life. The NKC has also made similar recommendations in this aspect.

Attracting Good Faculty and Managing Finances

Attracting a good faculty has always been one of the concerns in law schools because of lack of support from governments when it comes to financing. Improving remunerations and service conditions is a must but that would be impossible if new ways for financing are not introduced. The law college can allow their faculty to take up legal practice but in a regulated manner so that it does not affect their academic interest too. Research holidays may also be provided to them so that they are able to get involved with academia and in shaping of the national education policy. NKC also recommended awards at state and national level to encourage academic excellence for law teachers [41].

In order to get more finances, the state or central government can help by setting up different chairs of research in law institutes throughout the country. Appropriate public-private partnership models can also be looked up. The contributions made by corporate houses to law institutes could be made tax free. This would raise a significant amount of money need to run these institutes so that they cater to modern needs [42]. Earlier, Faizan Mustafa had also called for a common central authority of NLUs which would control its finances, so that NLUs are not dependent on grants from state governments and have a central purse [43].

Advocating Research

Centers for advanced legal studies and research called CALSAR by NKC should be setup in each part of the country for promoting legal studies and research. The government

should make healthy investments in these research centers so that they serve as portals of information and research in the country. They can also be used to train law school faculty with vocational courses, as also serve as think tanks [44]. This would help in development of a knowledge economy wherein the demands of legal knowhow in the modern globalized world would be fulfilled in a big way. Teachers can also be given paid holidays for such research.

One more step that can be taken in this front is that complete digitization of records and research of national institutes like Indian Society for International Law, India Law Institute, Supreme Court, all High Courts and NLUs be done, so that every major research work is readily available for further deliberation by scholars all around the country.

Further, the National Convention on Legal Education at Gangtok, Sikkim in 2013, declared that autonomous institutions should be established for legal research and academia so as to fulfil the constitutional aim of justice [45].

Limiting the Number of NLUs

At a time when NLUs are supposed to be the forbearers of legal education in India there is a need that their standard of imparting legal studies be consistently maintained. It can be possible only when their number is limited so that more focus is put into their development [46]. There should be one 'model NLU' per state in maximum, otherwise NLU tag would lose its significance as leaders in legal research. Since there are instances where one state is planning to have more than one NLU, this practice should be prohibited by BCI, so that NLU can get an Ivy-League like status in the future of Indian legal education system.

CONCLUSION

For long, the Indian legal education system has eluded reforms but time has come when it cannot be done away with. The world is moving at a fast pace and in every field, there is interaction of international or transnational elements. In even formulation of local jurisprudence foreign law is being used [46], evolution is something that cannot be avoided.

On another level, the constitutional objectives of justice to all sections is impossible without properly trained and aware lawyers, politicians, public servants and judges to disseminate justice. Hence, it is necessary that research be incentivized and research infrastructure be improved not only in the NLUs but also in other law institutes as well.

In the same way, the model of public-private partnership needs to be used to get much-needed finances; legal consul can be provided with costs, as such research would be private and independently incentivized without government funds. Digitization of records and case laws is also necessary and more importantly these reforms should be carried on as quickly as possible.

Foreign exchange programs with foreign universities are also useful. Faculty exchange programs would help in giving our legal faculties much needed exposure so that when they come back they are able to draw a proper sketch of the developments in the world law before the students.

Above all as the Law Commission recommended harmonization between BCI and UGC is the most essential factor if reforms in the legal sector are to be successful. Rather than opening new NLUs focus should be on the already existing ones as well as improving other law colleges which have hitherto been grossly neglected.

In the entire five-year course, a student should be given the option obtaining a non-professional graduation after three years, so that only motivated scholars become professionals in the field of law.

REFERENCES

1. Justice A.S. Anand, 'Legal Education in India – Past, Present and Future' (1998) 3 SCC (Jour) 1.
2. Ibid.
3. The Report of The University Education Committee (December 1948- August 1949), Ministry of Education, Government of India, Vol I, 1962, p.6. Accessed through <http://www.academics->

- india.com/Radhakrishnan%20Commission%20Report%20of%201948-49.pdf on 22-01-2016.
4. Ibid., p. 230.
 5. Fourteenth Report, Law Commission of India, 'Reform of Judicial Administration', Ministry of Law, Government of India, Vol I, 1958, p.522. Accessed through <http://lawcommissionofindia.nic.in/1-50/Report14vol1.pdf> on 20-01-2016.
 6. Section 2(f) of University Grants Commission Act, 1956 lays down that UGC has the power to exercise control over the Universities and affiliated colleges.
 7. Dr. Sushila, 'Legal Education in Globalised World: Challenges and Opportunities', (2003) PL June 67, p.68.
 8. Ravindra Kumar Singh. *Role of National Law Universities in Transforming Legal Education in Modern India- A Critical Appraisal* from *Legal Education in India: Essays in honour of Professor Ranbir Singh*, Universal Law Co., New Delhi, 2014, p.399.
 9. M.P. Jain, *Outlines of Indian Legal History*, Wadhwa and Co., 1990, p. 114.
 10. Supra 9. P.402.
 11. Speech by Justice A.M. Ahmedi as the first M.C. Bhandari Memorial Lecture, 'Repairing the Cracks in Legal Education' (1993) 1 SCC (Jour) 3.
 12. Manmohan Singh, Prime Minister of India, Inaugural Address at the Conference of National Consultation for Second Generation Reforms in Legal Education (May 1, 2010). Accessed through <http://pmindia.nic.in/speech-details.php?nodeid=889> on 27-01-2016.
 13. Supra 12.
 14. AIR 1993 SC 2178.
 15. Lovely Dasgupta. *Indian Legal Education and the Law School Paradigm- Two Steps Forward and One Step Backward* from *Legal Education in India: Essays in honour of Professor Ranbir Singh*, Universal Law Co., New Delhi, 2014, p.447.
 16. National Knowledge Commission, Report to the Nation 2007, p.39. Accessed through http://www.dauniv.ac.in/downloads/NKC_Report07.pdf on 15-01-2016.
 17. The Curriculum Development Committee Law Report (2001), p.2. Accessed through <http://www.ugc.ac.in/oldpdf/modelcurriculum/law.pdf> on 19-01-2016.
 18. Arthur Taylor Von Mehren, 'Law and Legal Education in India: Some Observations', 78 Harv L Rev 1180, Harvard Law Review, April, 1965 Comment.
 19. Supra 16.
 20. 'Cost of legal education shoots up as younger colleges struggle', *Live Mint*, 28-07-2015.
 21. V. Vijayakumar. *Legal Education in India and the National Law School Experiment: Achievements and Challenges* from *Legal Education in India: Essays in honour of Professor Ranbir Singh*, Universal Law Co., New Delhi, 2014, p.148.
 22. Supra 2.
 23. Justice Ahmadi Committee Report (1994).
 24. Supra 17.
 25. 184th Law Commission Report (2002), paras 6.5 & 6.6. Accessed through <http://lawcommissionofindia.nic.in/reports/184threport-parti.pdf> on 19-01-2016.
 26. Supra 17.
 27. 184th Law Commission Report (2002), para 5.16. Accessed through <http://lawcommissionofindia.nic.in/reports/184threport-parti.pdf> on 19-01-2016.
 28. Ibid., para 5.17.
 29. Supra 8. P.70.
 30. Justice A.R. Lakshmanan. *Legal Education – Role of the Bar*. From *Legal Education in India: Essays in honour of Professor Ranbir Singh*, Universal Law Co., New Delhi, 2014, p. 41.
 31. Supra 17.
 32. 184th Law Commission Report (2002), paras 2.21 & 2.22. Accessed through <http://lawcommissionofindia.nic.in/reports/184threport-parti.pdf> on 19-01-2016.
 33. Supra 17.
 34. Justice A.R. Lakshmanan, 'Legal Education – Role of the Bar' from *Legal Education in India: Essays in honour of Professor Ranbir Singh*, Universal Law Co., New Delhi, 2014, p. 41.
 35. 'Lawyers urged to strike work', *Times of India*, 11-07-2011. Accessed through <http://articles.timesofindia.indiatimes.com/>

- 2012-07-10/goa/32617752_1_sgaa-bci-legal-education on 01-02-2016.
36. Supra 33, para 5.22.
37. Supra 33, Para 6.5.
38. Supra 17, p. 40.
39. Prakash Chandra Shukla. *Legal Education in India: Challenges and Prospects*. Nyaya Deep, 2011, p.45.
40. Upendra Baxi. *Towards Understanding Judicial Education*. Delhi Judicial Academy (Vol. 8) 2012.
41. Supra 33. Para 9.21.
42. Ibid.
43. Ibid., p.41.
44. Supra 21.
45. Supra 34.
46. University News (51) 26 (2003), p.26. *Chairman Railway Board v. Chandrima Das*, (2002) 2 SCC 465.

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