

# ANALYSIS OF THE CHALLENGES POSED BY LEGAL EDUCATION AND THE NEED OF TRANSFORMATION IN THE CONTEMPORARY TIMES

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## ABSTRACT

*In a democratic country, like India, to meet the challenges of the legal knowledge domains of the 21st century, legal education must conform to the ideas of innovation, information sharing, knowledge application and its management at professional and institutional levels. Legal education is known to be inclusive of knowledge faculties of all the multi- disciplinary fields of education, and its correlation with other subjects to make it more relevant to meet the practical and professional needs. The ideas, philosophies, opinions, critical thought amongst others are instrumental in understanding the jurisprudential ideologies and an insight into the society that stands high on the morals of justice and equality.*

*The paper aims to discuss how the modernization of legal education with the research and methodologies in the contemporary era with the inclusion of case studies, assignments, projects and field studies could be part of the academic curriculum, and delivery of these tasks on a time bound manner shall ensure the solving of the ground issues being faced by the society. Legal experts as rightly called are the social- engineers, who design and construct the legal framework in the society to deliver the demands of*

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*social, political and economic justice.*

*The principles of social and economic welfare society can be promoted only through the integration of the legal framework in such a manner which shall visualize the rational and functional mechanisms to analyze the problems of law and order. Pedagogic skills integration into teaching is a work of art, and its amalgamation into the legal research makes it mandatory to keep an update into the means and methods of its delivery. Therefore, law can be envisioned to be a wheel that shall drive the vehicle forward to strengthen the democratic system by promoting the ideals of research in legal field. Research in law should not merely be accumulation of knowledge, instead must be pragmatic in approach to meet the demands of all forms of law, alike.*

**Keywords** - Legal education, Legal Research, Innovative and integrated approach, DPSP, Preamble, Fundamental Rights, Social justice, economic welfare.

## I. INTRODUCTION

“The life of law has not been logic, it has been an experience”<sup>1</sup>, quoted by Oliver Wendell Holmes Jr.<sup>2</sup> conforms to the ideas of forward and progressive agenda in the field of legal education. In a democratic country, like India, to meet the challenges of the legal knowledge domains of the 21st century, legal education<sup>3</sup> must adapt to the ideas of innovation, information sharing, knowledge application and its management at professional and institutional levels. The last century was dominated by traditional methods<sup>4</sup> of imparting education where classroom learning and training was tremendously emphasized upon. With the modulations in the methodology with case

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<sup>1</sup> The famous quote by Oliver Wendell Holmes has applications in the domain of legal education perspectives of 21st Century, <https://www.floridabar.org/the-florida-bar-journal/the-life-of-the-law-has-not-been-logic-it-has-been-experience/>.

<sup>2</sup> Civil War veteran Oliver Wendell Holmes Jr. served as a U.S. Supreme Court Justice from 1902 to 1931, <https://www.biography.com/law-figure/oliver-wendell-holmes-jr>.

<sup>3</sup> Aggarwal, Arjun P. “LEGAL EDUCATION IN INDIA.”, Journal of Legal Education 12, no. 2 (1959): 231-48. [www.jstor.org/stable/42891345](http://www.jstor.org/stable/42891345).

<sup>4</sup> Anand, A.S. J., H.L. Sarin Memorial Lecture: Legal Education in India — Past, Present and Future, (1998) 3 SCC (Bom) 1.

studies gaining importance, practical skills and learning started becoming order of the day. With the limited applicability of case methods and studies, legal clinics came into existence to provide and assist people in seeking justice. Public trust and morality needs to fuelled with esteemed principles.

Legal knowledge prepares an individual to be equipped with the dimensions of information to aid in creation of new ideas. The appropriate amount of intersection and interpretation of the ideas leads to the aggregation of multi-dimensional aspects of education. Legal field is kaleidoscopic in nature, and does not specifically revolves around the aspects of law, instead covers human development, psychology, environment, international perspectives, trade, commerce, economics, management, technology, medical sciences, social sciences, amidst wide domain areas.

Legal education is known to be inclusive of knowledge faculties of all the multi- disciplinary fields of education, and its correlation with other subjects to make it more relevant to meet the practical and professional needs. The ideas, philosophies, opinions, critical thought amongst others are instrumental in understanding the jurisprudential ideologies and an insight into the society that stands high on the morals of justice and equality. The comprising of the principles and provisions, and their appropriate implementation leads to the delivery of social, political and economic justice. The subjects in the legal field are interwoven and interlinked with each other in such a manner, where execution of the principles of one is dependent over the other, which makes it further imperative to have broader understanding in the contemporary times.

The code of ethics should be in coherence with the pedagogies being delivered in the education models as well as the courts and offices. The pedagogy may differ from one region to another, depending on several social and environmental factors. When research and rationale are in unison with each other, experiential learning plays a crucial role in developmental and growth models. Also, while the legal consequences gain importance, it becomes pertinent to nurture the contemporary learning environment in such a manner that delivers the principles of law and justice in an ethical manner. The inflexible legal education system failing to abide by current

trends and demands, shall fail to accomplish the developmental aspects of the legal grounds. The already reigning design needs evaluation and reshaping with good practices shall be a leading pathway that would aim at growth of legal education.

## II. INNOVATIVE AND INFORMATIVE APPROACHES

The transformations in the legal education and its pedagogy is initiating a change in the paradigm of the prospects of its teachings in the contemporary times. The various developments across science, technology, information domains, communication and transportation are the major barriers crossed through the aids of legal knowledge paradigms that has shifted the focus towards more innovative<sup>5</sup> and progressive approaches. Globalisation and liberalisation have further narrowed down the world into a global village with specialised areas of legal practice and research.

Exposure to the new forces of the market enhances the capabilities of research which enables the policy formulations and regulations to be in place which would improve the facets of law and order globally. Market forces are important determiners of the innovations in legal field. Innovation into the legal arena is the call for transformation into the professional work codes and ethics, with improved skillsets, opinions, and behavioural patterns of the lawyers as well as the clients. Traditional curriculum patterns do not support the ideologies of the new world order amidst the new competency levels being required amidst the latest technological prowess owned by the world. Innovations are required at each step to have quicker and reliable methods in almost all the legal dimensions, which could range from investments to evolution, education to legal services amongst others.

Being innovative and informative are the new approaches that must be widely included and inculcated into the individuals into the legal education, which not only enhances the efficiency of work outputs, but also leads to value addition into the courses of work. Quality over quantity is majorly

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<sup>5</sup> DeStefano, Michele, Innovation: A New Key Discipline for Lawyers and Legal Education, (June 27, 2019). *New Suits: Appetite for Disruption in the Legal World* co-curated by Michele DeStefano and Dr. Guenther Dobrauz (Stämpfli Verlag 2019); University of Miami Legal Studies Research Paper Forthcoming. Available at SSRN: <https://ssrn.com/abstract=3411020> or <http://dx.doi.org/10.2139/ssrn.3411020>.

becoming the order of the day at cost effective practices in the fast paced competitive world which calls for bridging the gap between private and public services where technology is emerging to be a key player. Information sharing and communication with the click of a button has occupied the market place. It is essential to inculcate the faculties of knowledge seeking and being intellectually flexible to the ideas of the legal framework which makes one adaptive and informative to not only the laws, but the other aspects to it.

### **III. INCLUSIVE AND INTEGRATED APPROACH**

Project management and knowledge management are the means of informational technological development aspects that would boost the working pedagogy of the legal field. Outsourcing work projects, managing online clientele, expertise services on subject matters through automated documentations are becoming the methodologies to be adopted in the workplaces. Adapting to these new field technologies leads to inclusion and integration into the existing working environment and makes it increasingly conducive for others to follow in a user- friendly and convenient manner.

An integrated approach enable the inclusion of urban studies, regulatory governance norms, local self- governance studies, policy formulation and implementation, agricultural transformations, ecological studies, economic conduct, accountability standards amidst the studies offered in the law schools shall enable a broader visionary approach into the studying curriculum rendering understanding of the various dimensions of society in a comprehensive manner. The developments in technology is a major breakthrough into the field of legal education where being tech savvy could save on infrastructure and man power costs, and shall improve the quality of services being delivered to the clients, which enables better legal reasoning in time bound situations.

The agreements and undertakings in various industries and working environments involves the role of several key players including lawyers who work in close knit structure in order to formulate business policies for the client, which indicates the necessity of integrated approach in legal

education and pedagogy. Inadequate efficiency in handling multiplicity leads to the loss in client's faith in the working mechanism of the lawyer/ lawyer's firm. The art of integrative and inclusive approach should be inculcated into the regular education programs so that the new generation and upcoming lawyers learn ways to update themselves with the latest methods in the markets and workplace, to unleash the creative and collaborative mechanism of working environment. Advocacy<sup>6</sup> and transactional skill- sets into the curriculum shall enhance the capabilities of the new learners. Integrated approach further empowers the lawyers with wide range of experiences while working on various aspects and thereby reinforcing the skillsets.

#### IV. JURISPRUDENTIAL IDEOLOGIES AND FRAMEWORK

*Juris prudentia* refers to the study of the science of law, which deals with the philosophy of law and demarcates, analyses, and classifies several aspects of law into various branches being defined by different schools of jurisprudence. Socratis method<sup>7</sup> needs to be the essence of legal education, which ensures that an analytical and constructive methodology for the legal studies paradigm should be maintained for the arguments which ensures application based learning approaches, which would make the rote learning as remote learning, and lead to evolution of new teaching methods which aims at being more inclusive and integrated with the practical application. This shall ensure jurisprudential ideologies and framework to create competency based system of education with doctrinal and practical skills to be in place.

Jurisprudence is taking a backseat and not being taught the way it must be taught in the law schools.<sup>8</sup> It is failing to keep up in the pace of the modern fast paced legal educational pedagogy, where only case methods and justice without jurisprudential ideologies is seeming to lead the way. It is one of those definitive areas that forms a distinct identity in the host of legal

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<sup>6</sup> Finlay, Thomas A. "Advocacy: Has It a Future?", in *The John F. Sonnett Memorial Lectures at Fordham University School of Law: A Half-Century of Advocacy and Judicial Perspectives*, edited by Kenny Dennis J. and Davidson Joel E., 255-68. NEW YORK: Fordham University Press, 2018. doi:10.2307/j.ctv19x569.20.

<sup>7</sup> Schneider, Jack. "Socrates and the Madness of Method.", *The Phi Delta Kappan* 94, no. 1 (2012): 26-29. Accessed July 3, 2020. [www.jstor.org/stable/41763567](http://www.jstor.org/stable/41763567).

education.

## V. DELIVERING SOCIAL<sup>9</sup>, POLITICAL AND ECONOMIC JUSTICE<sup>10</sup>

The phrase quoted by Plato<sup>11</sup>, “The study of laws, on condition they are good laws, is unrivalled in its ability to improve students<sup>12</sup>”, stands the test of the contemporary times where the legal education carries the weight on its shoulders of creating responsible citizens in a country which are the major catalysts for delivering democratic ethos through social justice<sup>13</sup>, political and economic welfare. Multi- disciplinary approach in the academics makes it easier and comprehensive for better understanding. The deliverables must effectively address the issues which marks addressing the competencies of corporate, business, litigation, NGO’s, civil society’s world. Social inclusion<sup>14</sup> through promotion of gender equality, prevention of gender discrimination, encouraging educational institutions to impart knowledge, creating employment scenarios are essential for ensuring the ideals of equality and justice in society.

The Preamble of the Constitution of India<sup>15</sup> enshrines the morals of social, political and economic justice. The technical advancements and

<sup>8</sup> Brown, W. Jethro. “Jurisprudence and Legal Education.” *Columbia Law Review* 9, no. 3 (1909): 238-42. doi:10.2307/1109089.

<sup>9</sup> Upendra Baxi, TOWARDS A SOCIALLY RELEVANT LEGAL EDUCATION , (1979) (reporting on the University Grants Commission workshop on “Modernization of Legal Education” and featuring the need for “socially relevant legal education” and improvements needed in pedagogy)

<sup>10</sup> Shankar, Uday, and Divya Tyagi. “Socio-Economic Rights in India: Democracy Taking Roots.” *Verfassung Und Recht in Übersee / Law and Politics in Africa, Asia and Latin America* 42, no. 4 (2009): 527-51. www.jstor.org/stable/43239539.

<sup>11</sup> Munro, Robert J., and Dennis Noah. “PLATO, EDUCOM, and Legal Education.”, *Journal of Legal Education* 30, no. 4/5 (1980): 582-91. www.jstor.org/stable/42897748

<sup>12</sup> Plato (c.428 - 347 BC) *The Laws*, bk.XII, as observed in a Dictionary of Legal Quotations, Universal Law Publishing Co. Pvt. Ltd. New Delhi, 5th Ed. 2004, p.110.

<sup>13</sup> Wildman, Stephanie M. “Democracy and Social Justice: Founding Centers for Social Justice in Law Schools.”, *Journal of Legal Education* 55, no. 1/2 (2005): 252-67. www.jstor.org/stable/42893902.

<sup>14</sup> Chhetri, Durga P. “POLITICS OF SOCIAL INCLUSION AND AFFIRMATIVE ACTION: CASE OF INDIA.”, *The Indian Journal of Political Science* 73, no. 4 (2012): 587-600. www.jstor.org/stable/41858866.

<sup>15</sup> Sack, Peter. “LEGAL TECHNOLOGY AND QUEST FOR FRATERNITY : REFLECTIONS ON PREAMBLE OF INDIAN CONSTITUTION.”, *Journal of the Indian Law Institute* 32, no. 3 (1990): 294-308. www.jstor.org/stable/43952306.

developments are fast changing the social and economic dimensions across the world, leading to the changing of the dimensions of the new world order. Also, Directive Principles of State Policy<sup>16</sup> enshrined in Part- IV of the Constitution of India are aimed at social justice and economic welfare of the people, also involving political, administrative, environmental, legal, peace and security concerns. Some of the Fundamental Rights<sup>17</sup> in Part- III of the Constitution of India such as Article 23, 24 amongst others are aimed at social welfare of the Citizens at large.

The ideals of delivering effective social, political and economic welfare is, thus, at the core of the heart of legal education. While, education is comprised in Concurrent list (List-III) in the seventh schedule of the Constitution of India<sup>18</sup>, legal education forms part of entry- 26<sup>19</sup> of the list-III framework. On similar lines to enthuse professionalism in the legal field, Advocates Act came into force in 1961 which enabled setup of various Bar Councils throughout the territory of India in several states. The Bar Council of India<sup>20</sup> approves of the standards and ethics of legal education and pedagogy in recognition of law degrees and enrolment of individuals as advocates.

A balanced approach between legal education and legal profession shall pave the way for a just and economical society. The poor and weaker sections should be able to seek justice<sup>21</sup> keeping morals and discipline intact. Mere lip service would not ensure the delivery of the ethics and principles in the society, appropriate actions and mechanisms in place shall aid in good governance of the country, and here, the legal education has a significant role

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<sup>16</sup> Narain, Jagat. "JUDICIAL LAW MAKING AND THE PLACE OF DIRECTIVE PRINCIPLES IN INDIAN CONSTITUTION.", *Journal of the Indian Law Institute* 27, no. 2 (1985): 198-222. [www.jstor.org/stable/43950914](http://www.jstor.org/stable/43950914).

<sup>17</sup> Singh, Jai S., "EXPANDING HORIZONS OF HUMAN RIGHT TO EDUCATION: PERSPECTIVE ON INDIAN AND INTERNATIONAL VISION.", *Journal of the Indian Law Institute* 52, no. 1 (2010): 34-59. [www.jstor.org/stable/43953481](http://www.jstor.org/stable/43953481).

<sup>18</sup> See INDIA CONST., seventh schedule, List-III.

<sup>19</sup> See INDIA CONST., seventh schedule, List-III, Entry 26.

<sup>20</sup> Jena, Krushna Chandra. "ROLE OF BAR COUNCILS AND UNIVERSITIES FOR PROMOTING LEGAL EDUCATION IN INDIA.", *Journal of the Indian Law Institute* 44, no. 4 (2002): 555-68. [www.jstor.org/stable/43951843](http://www.jstor.org/stable/43951843).

<sup>21</sup> Report of –The curriculum Development Centre in Law , Vol, U.G.C, New Delhi, 1990, p.12., <http://legalservicesindia.com>.

to be played. Development and cooperation at all levels shall lead to juridification of the right to have better means of progress in the country. The United Nations Declaration of Right to Development (1986)<sup>22</sup> ensured development as a basis of human rights and evolution which aims at protection of women's rights, child's rights, tribal rights, rights of the migrants and refugees amongst others.

## **VI. CHALLENGES POSED BEFORE LEGAL EDUCATION IN INDIA**

There is strong interdependence on the economic relations of various countries throughout the world. The management of these relations requires strong framework of memorandums, agreements, treaties being signed amongst the organisations, countries, international bodies. The growth in the figures of trade and commerce across the boundaries of world has led to the emergence of challenges to the legal education. Information and technology is largely becoming the centre stage operating all the spheres of human existence. While the boons of technological advancements are manifold, the banes cannot be left unattended. The threats of cyber crimes, defamation, frauds, etc are multiplying with each passing day.

The building of legal pedagogy to meet the challenges<sup>23</sup> is the need of the hour. Since the need of information and communication technology cannot be overseen, the threats, on the other hand, cannot be denied in the cyberspace. Fundamental changes are required in the framework of delivery of legal education. Theory, analysis and practical training are becoming the essential pedagogy to be followed. Deviation from these means shall drift the system towards a slower and declining growth. Legal knowledge and education holds the essence of health and wealth of the country, which needs

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<sup>22</sup>The United Nations Declaration on the Right to Development unequivocally establishes development as a right and puts people at the centre of the development process. The groundbreaking document, adopted by the United Nations General Assembly on 4 December 1986, first proclaimed this inalienable right, declaring that everyone is "entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized." Available at <https://www.ohchr.org/en/professionalinterest/pages/righttodevelopment.aspx>.

<sup>23</sup>Diwan, Paras, Legal Education in India- status and Problems, Bar Council of India Trust, 1983. pp. 54- 74.

to be preserved for the growth, prosperity and managing professional competencies at global level.

The legal education does not aim to bind itself to the making of legal academicians and legal professionals, instead it serves the wider audience by making people aware of their rights and duties, though the competencies may differ in the amount of knowledge possessed. Development of infrastructure, at social, political cultural and economic shall serve as the strong pillars of imparting legal education in the country.

## VII. LEGAL RESEARCH AND METHODOLOGY

Surveys are becoming new order of the day, and are coming out to be one of the most reliable methods of conducting research, collecting data, and drawing inferences based on various aspects of data being retrieved through the survey studies conducted on the population. This aids in the new age lawyering in the 21st century, and supports the large sets of problem solving mechanisms with adequate training and documentation. The modernization of legal education with the research and methodologies in the contemporary era with the inclusion of case studies, assignments, projects and field studies need to be part of the new academic curriculum, and delivery of these studies and tasks in a time bound manner shall ensure the solving of the ground issues being faced by the society. Legal aid<sup>24</sup> through clinical courses<sup>25</sup> which has gained momentum in legal education<sup>26</sup>, is important for the research domains to be effective and innovative with effective skillsets and value additions to be delivered.

Global exposure, international exchange programs, sponsored research, analysis and developmental programs, skill- based and qualified faculty members are some of the measures that would promote the ideals of conducting new innovations into the legal field that shall cater to the needs

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<sup>24</sup>Higgins, Andrew. "LEGAL AID AND ACCESS TO JUSTICE IN ENGLAND AND INDIA." National Law School of India Review 26, no. 1 (2014): 13-30. [www.jstor.org/stable/44283780](http://www.jstor.org/stable/44283780).

<sup>25</sup>Mkwebu, Tribe. "Research on Clinical Legal Education: Unpacking the Evidence." In *The Clinical Legal Education Handbook*, edited by Thomas Linden and Johnson Nick, 255-88. London: University of London Press, 2020. doi:10.2307/j.ctvk8w167.9.

<sup>26</sup>Tripathi, P. K. "IN THE QUEST FOR BETTER LEGAL EDUCATION.", *Journal of the Indian Law Institute* 10, no. 3 (1968): 469-91. [www.jstor.org/stable/43949985](http://www.jstor.org/stable/43949985).

and challenges being posed by the current legal education system. International Human Rights, Labor Laws, Migration Laws, Maritime Laws, Intellectual Property Rights amidst several others are evolving at a faster pace and up to date study and analysis with adequate research seems to be the most productive method to ensure the meeting of challenges.

Imparting skills such as clinical counseling of the clients, practical skills and training courses, identification of professional ethics with research supervision and inculcation of just and ethical practices is essential for the conduct of legal research and legal awareness programs. Therefore, law can be envisioned to be a wheel that shall drive the vehicle forward to strengthen the democratic system by promoting the ideals of research in legal field. Research in law should not merely be accumulation of knowledge, instead must be pragmatic in approach to meet the demands of all forms of law, alike. Legal experts as rightly called are the social- engineers<sup>27</sup>, who design and construct the legal framework in the society to deliver the demands of social, political and economic justice, who make great policy administrators and decision- makers, which renders easy means to achieve peace and integrity in the society.<sup>28</sup>

## VIII. CONCLUDING REMARKS

Thus, a strong knowledge base is of utmost importance in understanding legal world. Being responsive to the new changes and pedagogies with emphasis on the quality education shall pave a stronger and steadier pathway to progress. The gaps between the demand and supply i.e. what is being desired and delivered requires to be minimized, with appropriate means and strategies which seek to improve the understanding and assessment of the law teaching. This leads to the necessity of having a mechanism of legal education and its practice to be in place which would be efficient, profitable and effective according to the new competencies to deliver the services in a hassle free manner. Academicians and practitioners

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<sup>27</sup> K.L.Bhatia, *Legal Justice Education: Vision Plan for Legal Schools*, 1 (Deep & Deep Publications Pvt. Ltd., New Delhi, 2006).

<sup>28</sup> G. Manohar Rao and K. Srinivas Rao, *Legal Education in India- Challenges and Perspectives*, 166 (Asia Law House, Hyderabad, I Edition, 2007).

need to reassess, envision and present solutions towards the already existing legal system, with critical analysis in place and work in collaboration to address the concerns of the legal education and pedagogy in the contemporary times. Reforms<sup>29</sup> and remedies to fix the deficiencies of the system to lead towards innovative, informative, inclusive and integrated practices is the need of the hour to overcome the shortcomings of the existing system.

The fusion of theory with practical aspects shall pave a long pathway for the progress in legal field which would inculcate the required skillsets based on the market demands in the upcoming lawyers. Domination of one over the other shall create a lacunae, delays in the access to justice, and rise in student and professional stress. Merely treating the symptoms would not cure the problem in actual terms. Thus, instead of rushing in to solve the problem, problem determination is essential.

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<sup>29</sup>Schukoske, Jane E., Legal Education Reform in India: Dialogue Among Indian Law Teachers (September 1, 2009). *Jindal Global Law Review*, Vol. 1, No. 1, pp. 251-279, September 2009; Reprinted in *Legal Education in India, 2014*, L.Malik and M. Arora, eds., Universal Law Publishing: New Delhi; University of Baltimore School of Law Legal Studies Research Paper No. 2009-27. Available at SSRN: <https://ssrn.com/abstract=1452888> or <http://dx.doi.org/10.2139/ssrn.1452888>.