

LEGAL EDUCATION AND PEDAGOGY IN CONTEMPORARY ERA

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ABSTRACT

Legal education is similar to science that delivers the students the knowledge of principles and provisions of legal system that they are able to employ in their respective future'. Often the legal education in India is overlooked from the prospective of socio-legal, political, historical, cultural and economic contribution that they make. The author of this paper aims to navigate through the difference between the contemporary structure and the age old pedagogy in legal education. The overall development of the students, the institutes and the teaching technique is certainly guaranteed given the changes are adopted keeping up the pace with the rest of the world. The orientations of the teaching technique needs a shift and more focus on developing the student and embed in them with ability to reason beyond the courtrooms.

Keywords: *Socio-legal, Legal Pedagogy, Globalization, Interdisciplinary Approach, Legal Education.*

I. OVERVIEW

The basic difference between the animal kingdom and human society is the prevalence of 'rule of law'. The ancient notion to the study of law or of legal profession was considered to be highly distinguished in the society.

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Specifically in context of the India's educational aspect, 'legal education' the Vedas were regarded as the highest authority. The very sources of the concept of Dharma (the righteous) hence embarked, what is to be kept in mind is that, this notion of 'Dharma' had not confined only with religion but with law as well. Thus it could be said that the ultimate goal is to overcome ones weakness². The present day legal education can stress back its origin to British era. The British establishment was responsible to bring in the uniformity in terms of the format of education and making various professional courses. Although time again it was observed that these changes were short lived and didn't prove to be efficient in giving quality legal education. During that time numerous things changes were made like the language in courts changed from Urdu to English, inclusion of woman as pleaders etc. Most significant change took place on assertion for urgent need for reformation in the legal education.

To its credit more scientific method was deployed to impart legal education. Two major landmark reformative steps took place in 1902 and 1910 in form of First Indian University Commission and the 'Chagla Committee' respectively. Thus the introduction of tutorial and case method of teaching was included³. In his report, "Towards a Socially Relevant Legal Education – A consolidated report of the University Grants Commission's Workshop on Modernization of Legal Education" (a working paper for the UGC Regional Workshop in law 1975-76), Upendra Baxi⁴, laid down following objective of the said workshop to; (a) modernize curricula in such a way that it is made relevant to calling of the society and students both. (b) Establish a mode in which interdisciplinary subjects can be studied to help in enriching interest of the students. He further proposed/suggested the LL.B. Curriculum for change; which seemed to have been adopted as the current LL.B structure in law school across India, does not show much change or amendments over

¹ The Curriculum U.G.C. Guidelines, Report : The Curriculum Development Centre in Law (1990).

² Bansri Pandi, Hindu Dharma, 55, (B & V Enterprises, Inc., Illinois, 1996), citing, Manu 7.2.

³ Sushma Gupta, History Of Legal Education, 51 (Deep & Seep Publications (P) Ltd., New Delhi, 2006) at 70.

⁴ Upendra Daxi, Towards a Socially Relevant Legal Education – A consolidated report of the University Grants Commission's Workshop on Modernization of Legal Education, (1975-76), <https://www.ugc.ac.in/oldpdf/pub/report/1.pdf> (last visited on June 21st, 2020)

the period of time. Total of 10 compulsory subjects were suggested to be taught in three year law school, in addition to 6 optional subjects.⁵ It is of paramount importance to observe the present day's curriculum in law schools and how there is not much visible change in terms of subjects offered in 21st century law school to prepare these young guns.

Dr. Upendra Baxi seemed to have emphasized on the importance of socio-legal aspect of law by looking through the lenses of 'modernity' and 'tradition' that is reflected in to approach to law and profession, in an overall social context. He defines a 'modernist' as someone, who has anxieties about study of law, who's advertent to futuristic pattern of technology and scientific development especially in relation to the economic growth and justice while emphasizing on the pattern of usage of resource monopoly in international context, multinationals and the human rights movement. This said 'modernist' will therefore responsively plan a curriculum in a novel manner while attempting to provide an integrated view of legal and social process⁶.

II. DEVELOPMENT AS PER 21st CENTURY

In the year 2007, National Knowledge Commission– compilation of Recommendations on Education; was presented to coincide with the final deliberations on the XIth Plan document⁷. The core essence from the very first reports and recommendations of NKC directly relates to Access to Knowledge, to be built on equity and opportunity while brooding over Right to Education, critical elements of vocational education and training and most

⁵ Id.

Ten Compulsory Subjects:

1. Indian legal and constitutional history 2. Contract 3. Tort 4. Family Law 5. Criminal law & procedure 6. Constitutional law of India 7. Property law 8. Evidence 9. Legal theory (Jurisprudence and Comparative law) 10. Civil procedure (including Limitation and Arbitration)

Optional Subjects:

Administrative law, Equity, Public International Law, Company law, Labor law, Taxation law, International Organizations, Bankruptcy, Law of cooperation & Public Control of Business, Military law, Insurance, Trust & other fiduciary obligations, Trademarks and patents, International Economic Law, Criminology and criminal Administration, Interpretation of statutes and Principles of legislation, Legal Remedies, Private International law.

⁶ Supra note 4.

⁷ National Knowledge Commission (2007) Recommendations, http://www.nipccd-earchive.wcd.nic.in/sites/default/files/PDF/NKC_Education.pdf (last visited on June 21st, 2020).

importantly access to English Language⁸. It was then that NKC formed a working group of experts under chairpersonship of Justice M. Jagannadha Rao with objective to suggest scope of improvement in the quality of legal education in India; an Independent Regulatory Authority for Higher Education (IRAHE) with several standing committees⁹. Evinced shortage of talented faculty was also discussed in this report along with innovative methods of attracting such talent into the field of academia. The working committee has done tremendous work by succinctly putting spotlight on the courses that are non-practicing purpose and those should be included in law¹⁰. These courses often successfully give the student to experiment with his/her prospective niche subject. There are various combinations that are never or barely discussed in traditional classrooms in law schools, which have the potential to give a juncture where hidden passion can be combined with inert intelligence of the student.

In last two decades law as choice for profession has seen tremendous growth. It was up until much recently that popularity for law increased among the youth of India. For a long time studying law instead of opting for courses like medical, engineering, architecture, accountancy was considered as wrongful choice for career. After globalization and with gradual growth in quality of education, international exposure to local and national colleges enabled law students of array options they gained exposure to various international organizations, opportunities of representations on platforms such as Model UN, moot court competitions, parliamentary debates, conferences, paper presentations, summer school programs, students exchange programs etc. gave the students an unparalleled scope where they would be able to widen the horizon and work towards excelling in future¹¹. This has led in branching out of career options for these aspiring lawyers where they do not have a

⁸ Sam Pitroda Chairman National Knowledge Commission (November 6th, 2007) http://www.nipccd-earchive.wcd.nic.in/sites/default/files/PDF/NKC_Education.pdf (last visited on June 21st, 2020).

⁹ Vidhya Jayakaumar, National Knowledge Commission and Legal Education, Published in Thane Law college patrika (2007-08) http://www.vpmthane.org/law/Princ-Articles/National_Knowledge_Commission_an_Legal_Education.pdf (last visited on June 21st 2020).

¹⁰ Id.

¹¹ Ahmad, Tabrez. (2009). Legal Education in Indian Perspective Legal Education, eJournal. 10.2139/ssrn.1513826.

restricted role of a pleader but being a policy maker, business advisor, mediator, lobbyist, law reformer, negotiator etc. new development that requires lawyers to play multiple roles also require major changes in the curriculum of law school to prepare an interdisciplinary body of study that delivers liberty rather than constraining students to walk on a traditional path¹².

III. IMPORTANCE OF CHANGE

A drastic change was seen in entire notion of legal education in India that initiated post-independence¹³. It was not an easy task as there were other far more essential factors such as illiteracy, poverty, hunger etc. that demanded immediate attention at that point of time. The Republic of India was established as a democratic sovereign state; the primary object hence was to frame its Constitution. This constitution ultimately became a source of rights and duties, and was the 'rule of law' became basic component of the Indian democracy¹⁴ which means, the ultimate power of the state over individuals and their conduct. However, in the contemporary situation the rule of law goes justifying globalization. Unfortunately it appears over the time that the structure of legal education in India only aimed at proving bare knowledge on the subject and statues rather than amplifying the meaning and scope of the subject¹⁵. The curriculums at law schools are not efficiently helpful in shaping the aspiring lawyers to become either the social reformers or be an administrator. Further, it needs not to eliminate the mention of the fact that number of law schools that are established in past decade. They have successfully meager substandard quality of graduates. Thus the focus should be on enabling the law students to hone their skills, train them for the fast growth of legal profession. As mentioned above that there is massive branching of legal profession it is of utmost importance that the essence of legal education i.e. being capable of deriving the impetus from people and their lifestyle in the society¹⁶. Profession of law probably is one of those

¹² Id.

¹³ Historical Development of legal education in India, 13 (2017)

¹⁴ Id.

¹⁵ Chairman BCI, available at <http://www.barcouncilofindia.org/> (last visited on 19th June 2020)

¹⁶ Supra note 4.

professions that have capacity and cadre to locate its veins in almost all the social, economic, political and cultural set up.

Although a huge part of this 'noble profession' goes unrecognized, and that is the 'Socio-legal' aspect of law. Social sciences can be said as essence of legal education since without one person's deprivation of rights there will be no need to protect one's own right. The very duty or objective of being a lawyer is to be directly connected to society in its entirety so much so that they are well aware of the issues faced by people, flaws in the governance and the legislature, problems in policy identification and implementation etc. can be efficiently understood and resolved by someone who has interdisciplinary knowledge of all these. This interdisciplinary approach is often seen missing from the framework of main curriculum in law school rather restricted options of combinations per subjects is evinced.

Under the Constitution of India; subject of legal education falls under 7th schedule list III entry 26 (Article 246). The concurrent list includes power to be considered by the Union and the State governments¹⁷. It's the Union that is vested with power to empower the education and research standards of institutions. Thus, it directly urges for their attention on redefining the legal education method in India. Not only a reformative change but more student centric rather than teacher centric atmosphere is expected in the universities.

IV. REFLECTION OF INTERDISCIPLINARY APPROACH IN LAW SCHOOLS

Dr. Upendra Baxi, pointed out while further talking about the Legal education's pedagogy in Indian universities that, the notion practiced here is somewhat similar to the 'narration sickness' idea given by Paulo Friere. This concept is showcases a motionless, static, compartmentalized where instead of communication, teacher's issues or gives bulletins and student is expected to receive memorize and repeat all that is being imparted¹⁸. This practice can

¹⁷ The Constitution of India, Seventh Schedule (article 246), list III, <https://www.mea.gov.in/Images/pdf1/S7.pdf> (last visited on June 20th, 2020).

¹⁸ Supra Note 4.

be seen as a potential hurdle in production of eminent Indian jurists as there are some exceptional lawyers and judges who contributed in shaping the judiciary of this country. His contention towards the phrase generating interest of student in a subject should be the fundamental obligation of a teacher rather than seen as a feather in his hat, as a teacher. In order to make a sound proof curriculum for transformation of legal education, for the weight to be given to social relevance at the same time towards a 'modernist approach'; can't be attained without contemporary pedagogical transformation.

The era of globalization didn't only open gates for trade and commerce but it presented an opportunity for the students where they were able to access into the world of mass media, information and use communication technology for multiple purposes including 'learning'¹⁹. This impacted in the approach of learning tendency and methods of learning employed by the students. The ease of access of electronic gadgets and means to access the internet; gave them an alternative platform for enhancing their knowledge which was beyond the walls of classroom. In such case where subjects like law/legal education come into the picture, we see a variety of opinions surfacing in front of us. Ironically maximum number of these opinions challenges the traditional method of teaching.

Thus it is safe to say that, legal educations aids in providing a platform to students and scholars enhance the core knowledge of the field, identify the grey areas where there is a need to eliminate the lawlessness, to keep reviewing, amending, evolving the legal system. Along with these the students are able to look into the past and understand from where the law and regulations are coming from and know the history²⁰. All these mentioned able are primarily to help the student enrich the birth of law in the civic society. The study indicates that there is necessity to address the serious and well-known shortcomings associated with law school pedagogy, along with the need to stimulate consideration of alternate pedagogical methods²¹.

¹⁹ Dr. Jay Prakash, Legal Education in the era of Information and Communication technology: An Analysis, JIJ (2016).

²⁰ Id.

²¹ Dr. Robert Schehr, 'Lord speaks through me': Moving Beyond Conventional Law School Pedagogy, IJCLE,(2009).

V. COLLECTIVE SUGGESTION AND RECOMMENDATION

That brings us to the suggestive parameters the author wishes to suggest in the paper; that are how the changes could be made based on the aspects that could be foreseen or the aspects that are already suggested by scholars and jurists. This most definitely includes the concept of Sustainable Development that gives an edge to the students to diversify their horizon and learn more efficiently.

1. A massive need of curriculum transformation is suggested to be prepared that would include and will enable the students to explore the possibilities of their career along with knowing the broader vision of future. The legal education has potential to cater the need of searching for answers of topics that are oblivious. There are various ways of doing the likewise such as recruiting more qualified but research oriented faculty, generating interest of students in field of more scientific legal research, providing them global exposure. All these can be initiated by facilitating and financing research centers at universities.
2. The globalization and privatization of economy presented the legal professionals with a wide range of opportunities not only in terms with career but in academics too. Subjects like Intellectual Property Rights (IPR), International Human Rights, Transnational Organised Crimes, Cyber Crimes, Security law, Air and Space Law, Labor Law, Energy and Infrastructure Law, Maritime Law, Alternative Dispute Resolution (ADR), International Business Transactions etc. are amongst the few area that have attracted huge number of law graduates. Unfortunately, for such major Indian Institutions has not yet become preferred destination.
3. Inclusion of non-legal disciplines such as economics, psychology, policy making, sustainable development, Political Science and sociology etc. should be given as optional for students. There should be further branching in form of multidisciplinary courses. Such options will be proven to give more insight into corporate and business landscape. It

vests a responsibility on the institution to equip an innovative approach to adhere to the commitment of higher learning.

4. More flexibility can be brought into offering degrees programs by the universities. Many universities especially in aboard, offers courses like dual degree programs or double majors; this often leads into deeper intellectual development. Students when given opportunity to mix and pick combination of their choice might lead into excelling. Despite of the complexity of such an idea a collaborative effort can make it possible²². As well an easy access to study comparative laws from lenses of interdisciplinary research and methodology.
5. The comparative laws can be offered to be taught by faculties under faculty exchange programs across the country. Where professors/academicians from could be invited to impart lecture on respective comparative law subjects.

Encouraging more students to take part as research assistants right from undergraduate level, that can help generate interest of students and get them familiarize with the research and methodology and preparing them beyond the role of a lawyer but that of an equipped researcher.

²²Prof. (Dr.) Balvinder Shukla, Multidisciplinary Approach and Entrepreneurship in Legal Education, Amity International Journal of Juridical Sciences (Vol. 5, 2019).