CASTE IN 'CLASS': A STEP TOWARDS REFORMING LEGAL EDUCATION IN LAW SCHOOLS IN INDIA

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ABSTRACT

How long shall we continue to live this life of contradictions? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril! -Dr. B. R. Ambedkar

The above warning by Dr. Ambedkar can't be set aside and looked only from the lens of political or administrative arrangement. The warning arose from the fact that people in India couldn't be welded into a Nation owing to the multiple divergences, differences and inequalities in almost all realms. Though 26th January 1950, promised Political Democracy what it lacked was Social democracy as well as selective Amnesia of the Haves vis-a-vis Have-nots acting as detrimental to the transformation of people of India to Indian citizens which Benedict Anderson spoke of 'imagined communities'. Legal Education which has become the backbone of the Constitutional Democracies in the post-colonial world ought to be sensitive to the above mentioned dictums. It assumes importance in post-Independent India owing to the unveiling of the new indigenous era of 'Rule of Law' from the age of Colonial domination. Legal Education ought to be

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imparted to grasp the modus-operandi of Social Morality so that it serves to be a catalyst in instituting Social and Economic Democracy along with golden trio of Liberty, Equality and Fraternity with Justice as its Base.

Therefore, socially just and relevant education rests on the edifice of modernization, interdisciplinary approach, and tangible representation of the broad socially relevant principles acting as guide for the students. The current legal education is influenced by the colonial legacy which can be deduced via the lexicon used in the laws framed during that time but what's more paradoxical is that the same laws are carried till today with minor changes making them dogmatic rather than Principle based which makes it effectual in the changing contemporary scenario of time, space and place. What is more depressing is the fact that legal education and pedagogy of the same suffers from the same myopic vision even in the current times. With the changing socio-political scenario they need to be rescued from colonial hangover.

Not just colonial hangover but Legal education and pedagogy is far distant from the grassroots development in the domain of Gender,Religion Caste and Class hierarchies which eventually leads to Industrial production of crass products which are epitome of static,biased and non-sensitive.The products that enter the state,civil society, community aren't a value addition instead they are the agents of continued parochial societal morality which maintains its institutional hold in the realm of conscious and subconscious.

This paper argues for inclusion of ground realities in Legal Education and Pedagogy both for teachers and Students so that it shall lead to a creation of an enlightened citizenry which shall produce a chain reaction for formation of a formidable force that shall act as an catalyst for bringing the petty societal morality in tandem with Constitutional Morality.It also explores the various strategies for doing the same to institute this 'agents of change' variable in tangible as well as intangible domain.

Keywords: *Caste, Class, Legal education, Reforms etc.*

I. INTRODUCTION

Legal education is sine *qua non* for the development of any society. It plays a crucial role in promoting social justice. Lawyers are often termed as "social engineers" as they have the ability to bring positive transformations, within a society, with their knowledge of law. Felix Frankfurter had made an observation, "the law is what the lawyers are. And the law and the lawyers are what the law schools make them"[1]. Thus, it is crucial that the legal education imparted in the law schools is just and socially relevant in order to create socially sensitised lawyers.

Before we indulge in a detailed discussion on socially relevant legal education, it is better to develop a precursory understanding about law and society. It can be said that law and society are closely intertwined, both undergoing changes in response to each other. Formation of any society presupposes devising a set of principles or body of rules to be followed by its members. In words of H. L. A. Hart, societies might not require the kind of complex legal institutions that surrounds us but every society requires a set of basic rules or principles[2]. These rules or principles have the sanction of the majority of the society and thereby obliges each member to comply with them. This was articulated by Kant,in his *Principles of Political Right,* in following words, a contract which "binds every legislator by the condition that he shall enact such laws as might have arisen from the united will of the people; and it will likewise be binding upon every subject, in so far as he will be a citizen, so that he shall regard the law as if he had consented to it of his own will"[3].

In Plato's *Crito,* Socrates refuses to listen to his friend, who wants him to escape from the prison, by stating that he has bound himself in an implied contract to obey Athenian law by enjoying their protection for so long[4]. For

[1] 266th Law Commission Report, (2017), http://www.latestlaws.com/wp-content/uploads/2017/07/Law-Commission-Report-No.-266-The-Advocates-Act-1961.pdf.

[2] Madhav Khosla, India's Founding Moment: The Constitution Of A Most Surprising Democracy (1st ed. 2020).

[3] David G. Ritchie, Contributions to the History of the Social Contract Theory, 6(4) PSQ, 656, (1891).

[4] James Boyd White, Plato's Crito: The Authority of Law and Philosophy, 63 U.Cin.L.Rev., 11, (1994).

Hobbes, this "contract", to create a civil society, springs from man's desire for self-preservation as in his natural state he is always in a state of war. Through this social contract, men vest all power and authority in leviathan like all-powerful sovereign in lieu of protection. However, philosophers like Locke and Rousseau differed from Hobbes and instead upheld that the real authority vests in people. According to Locke, in spite of the institution of a form of government the real power rests in the hands of the majority of the society, which can overthrow any form of government through "revolution"[5]. Rousseau had the similar idea of "inalienable sovereignty of the people"[6].However, he advanced the idea of "general will", which is distinct from the will of majority and is instead the will of the political organism. For him, general will is "endowed with goodness and wisdom surpassing the beneficence and wisdom of any person or collection of persons"[7].

If one applies the theory of "general will", as advanced by Rousseau, in the context of India democracy it implies the 'will' not only dictated by the voices and numerical strength of the majority but also accommodative of interests of minorities. Thus, realizing the dictum of H Laski that it is the duty of majority to uphold and protect the rights of the minorities.[8]Therefore Indian democracy, which came into being on 26th January 1950, can be characterized as not only a 'social contract' envisaging rule "of the people, by the people and for the people" but also a mode of "associated living"[9], accommodative of 'will' of both minority and majority.

This idea of "associated living", as furthered by Dr. Ambedkar, is embodied within the Constitution of India, which opens with the golden words "we the people of India", signifying will of not only majority but also of minority. Thus, this dynamic document, keeping in consideration the intrinsic factors peculiar to the society of India, visualizes an ideal India based on principles of justice, liberty, fraternity and equality. This exhaustive document has the potential to unleash a 'Copernican revolution' in the unique social setup of

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[5] Ritchie, supra note 3.
[6] Id.
[7] Edward W. Younkins, Rousseau's "General Will" and Well-Ordered Society,Quebeco is Libre (July 15, 2005), http://www.quebecoislibre.org/05/050715-16.htm.
[8] Harold J. Laski, A Grammar Of Politics (5st ed. 1967).
[9] DR. B. R. Ambedkar, Annihilation of Caste (1936).

India, which is driven by dominant "societal morality", perpetuating discrimination on basis of caste, religion, gender, place of birth, race and ethnicity. It is this "essentially undemocratic"[10] society which the Constitution of India attempts to transform by "removing all legal disabilities to the lower strata of society, minorities, women and adding special provisions and safeguards to ensure not just formal but substantive justice".[11]

Thus, to fulfill the cherished ideals of the Constitution of India, it is crucial to have a socially relevant legal education that prepares law students, who will be undertaking crucial public duties in future, to deal with complex social situations peculiar to the Indian society. In this paper, the researchers analyses the social relevance of legal education in a predominantly casteist Indian society. For the present research 3 year LL.B. syllabus of three Universities has been chosen. This research is conducted with the objective to ascertain whether the legal education imparted, within the 3 year LL.B. courses, provides requisite skills and legal acumen to the law students to deal with specific social issue of caste. Moreover, caste has been chosen as a parameter to determine social relevancy of legal education because it is that social evil that is unique to South Asia, especially our country. Also, our country has been responsible in spreading the dictum of caste system wherever its populace goes.[12]

In the light of above discussion, this research paper will grapple with the following themes of "vice of caste system", "rule of law versus rule of society", "socially relevant legal education". Furthermore, the paper will also be conducting an analysis of 3 year LL.B. courses of three Universities to gauge social relevancy of the law curriculum. Finally, the paper will conclude with certain suggestions to make legal education more socially relevant.

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[10] Speech by Dr. B. R. Ambedkar, Constitution Assembly Debates, [1948]; KHOSLA, supra note 43, at 2.

[11] Sameena Dalwai, Caste in Legal Education: A Survey of Law Schools in India, 5(1) Asian. J. Leg. Educ., 60 (2018).

[12] Kenneth J. Cooper, Indians Have Imported Casteism to the US & a Black Journalist Writes on the Need to Ban it, THE PRINT, (27th March, 2018),https://theprint.in/opinion/a-black-journo-on-why-us-civil-rights-laws-must-ban-casteism-against-dalits/45011/.

II. THE VICE OF CASTE SYSTEM

As per latest 'Crime in India' report released by National Crimes Record Bureau, a total of 42,793 cases/ atrocities against Scheduled Castes and 6,488 cases/atrocities against Scheduled Tribes were reported.[13]An upward trend has been recorded in cases of caste atrocities against the dalits. A careful assessment of the NCRB data reflects that 66% growth has been recorded in commission of caste atrocities in last ten years (2007-2018).[14] However, numbers never really adequately reflect the horrific nature of caste based discrimination and atrocities. In situations when it is a matter of dogmatic customs and practices, the extent of prevalence of caste atrocities and discriminations can never be truly gauged as many such cases of caste based atrocities go unreported.[15]

It is also crucial to keep in mind that caste based atrocities or discriminations are complex because they arise out of deep-rooted biases and prejudices. The complexities in reporting, registration, investigation and trial of such cases germinates from the fact that those handling such cases, whether they are public officials, law enforcement agencies, lawyers, judges and others, are not necessarily neutral beings but affected by their 'caste positioning' in the society.

For substantiating the above stated argument, the researchers have cited few instances, where there has been a dereliction of duty by the public officials, judiciary and common citizens in upholding the cherished ideals of the Constitution. First of many such is the Khairlanji massacre of 2006. This case is a perfect exemplar of travesty of justice in aninherently casteist society. In this case, the Bhotmanges, a dalit family of Khairlanji, was brutally tortured, humiliated and murdered, for being assertive, by a mob comprising of the upper castes. An independent enquiry commission revealed that there was dereliction of duty by the concerned public officials

[13] Ministry of Home Affairs, Crime in India 2018, (23rd December, 2019), https://ncrb.gov.in/sites/default/files/Crime%20in%20India%202018%20-%20Volume%202.pdf.
[14] Faizan Mustafa, SC/ST Act: Court Rulings Will Have Chilling Effect on Reporting Crimes Against Dalit, THE WIRE, (28th March, 2018), https://thewire.in/law/sc-st-act-court-ruling-will-have-chilling-effect-on-reporting-crimes-against-dalits.
[15] Id.

in registering of FIR, conduct of post-mortem and investigation.[16] All of these factors led to formulation of a weak case, which resulted in Bombay High Court concluding that "the incident was not pre-meditated or motivated by caste prejudices; it was a case of 'revenge killing'".[17] Disregard to the caste dynamics in the entire case was attributable to the lack of consciousness about entrenched caste prejudices and its ability to subvert the 'rule of law'. This case, in words of Anil Teltumbade, highlights the sombre end of every dalit who tries to assert his/her constitutional rights, by acquiring good education or economic self-sufficiency, in an inherently casteist society which uses violence to 'teach a lesson' to the dalits for usurping the established customs and dogmatic beliefs.[18]

The complexities are much more intensive in instances where the 'doubly oppressed' dalit women are made the target of caste atrocities.[19] The 2016 Crime in India report, released by NCRB, highlighted that the major portion, of total crimes committed against scheduled castes, consists of atrocities against dalit women. The report also highlighted that more than four dalit women are raped every day.[20] However, the statistics available are just a tip of the iceberg as most of such cases go unreported and unregistered.[21] It is the shameful truth of our society that dalit women are raped, especially gang raped, for "teaching political lessons and crush dissent and labour movements within the Dalit communities".[22]Usually, "women's sexuality is at the core of masculinity of a caste".[23] The dominance of a particular caste is determined by the sexual control exercised by it over the women of other

[16] Dalwai, supra note 11.

[17] Khairlanji: The Crime and Punishment, THE HINDU, (10th November, 2016), https://www.thehindu.com/opinion/Readers-Editor/Khairlanji-the-crime-and-punishment/article16149798.ece.

[18] A. Teltumbade, Khairlanji and Its Aftermath: Exploding Some Myths, 42 Econ. Polit. W., 12, (24th March, 2007).

[19] Sumi Sukanya Dutta, Four Dalit Women are Raped Everyday, with several on multiple occasions,THE INDIAN EXPRESS, (19th May, 2019), https://www.newindianexpress.com/thesundaystandard/2019/may/19/four-dalit-women-are-raped-every-day-with-several-on-multiple-occasions-1978741.html.

[20] Id.

[21] Id.

[22] Attacks on Dalit Women: Pattern of Impunity, HUMAN RIGHTS WATCH, https://www.hrw.org/reports/1999/india/India994-11.htm.

[23] Dalwani, supra note 11.

castes. Thus, by humiliating and sexually assaulting women of another caste, the men of the 'upper caste' assert their dominance and perpetuate "institutional humiliation"[24]. This is what exactly happened in the Bhanvari Devi case.

Bhanvari Devi, a potter woman, tried to stop child marriage wherein she challenged rudimentary customs and upper caste men of the village. In order to teach her a lesson and show her 'her position' she was gang raped, in front of her husband, by the men of the upper castes. In this case, the apathy and biases of those manning public posts were on naked display. When Bhanvari Devi tried to get FIR lodged the police officials refused to lodge one by saying that "she was too old and unattractive to merit the attention of the young men".[25]Furthermore, the apathy and bias of the judge lead to acquittal of accused on the grounds that "what perversity propels Bhanvari to imagine being raped by Gujjars, when they would not even consider her worthy of such defilement?"[26] In complete disregard of Bhanvari's statement, the Court held that "Indian culture has not fallen to such low depths that an innocent, rustic man will turn into a man of evil conduct that disregards caste and age differences and becomes animal enough to assault a woman."[27]

Another such case is the infamous Mathura rape case where the gender and caste biases of those manning the courts of law caused travesty of justice. It was the case of custodial rape of a tribal girl by two constables, who were acquitted by the court because the victim was habitual to sex and in absence of any signs of struggle on her body it was assumed that it was an incident of consensual sex, not rape. From the perspective of gender a lot has been written and spoken about this case, but not much emphasis has been laid on 'caste positioning' of the victim which led to her getting "doubly oppressed".

In both the cases, Mathura rape case and Bhanvari Devi rape case, undignified remarks made on the character of the victims are a projection of the way sexuality or body of dalit and tribal women are perceived. This

[24] Gopal Guru, Humiliation: Claims And Context (1st ed. 2009).
[25] Supra note 22.
[26] Dalwani, supra note 11.
[27] N. Rajagopalan& D. K. Datta, CEO Characteristics: Does Industry Matter, 39 Acad. Manage. J. (1996).

discriminatory, inhumane and prejudiced thinking has the ability to cause grave injustice to 'Mathura and Bhanvari Devi' of this country whenever they would find themselves, at the altar of law, seeking justice.

Another category of crimes which requires special attention from the perspective of caste are "honor killings". Dr. Ambedkar had termed endogamy as the base on which the entire superstructure of caste system is built.[28] To prevent "mixing of bloods" and maintain "purity of the caste" the sexuality of women is heavily guarded. The men folk of the caste assume an authority to preserve the 'honor' of the caste. In such a scenario, if a couple goes against the wishes of the society and tries to subvert the status quo, they are murdered in name of preserving the 'honor' of caste. Maximum numbers of honour killings are caused because of inter-caste marriages; therefore it is better to call them caste killings. One such case of caste killing is of "a Masters graduate in Statistics from a reputed college in Chennai, hailing from a SC community in Dindigul where his father was a government servant. He fell in love with a trained nurse from an intermediate caste. Under the pretext of discussing marriage, the girl's family allegedly summoned and murdered him".[29]

Time and again, Supreme Court has offered guidelines to afford protection to young couples, who have taken the step to choose love in a country where love affair is the third highest motive behind murders.[30] Still, there is a need for a dedicated legislation and special courts guaranteeing rights and protections to couples performing inter caste marriages. Also, "honor killing" should be included as one of the forms of atrocities under SC & ST (Prevention of Atrocities) Act, 1989.

There are multiple legal difficulties encountered in such cases such as gathering of witnesses, proving conspiracy and collecting robust evidences.

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[28] 1, DR. B.R.Ambedkar, Castes in India: their Mechanism, Genesis and Development, DR. Babasahed Ambedkar: Writings and Speeches, (1979).

[29] Families of Honour Killing Victims Shares Stories of Caste Brutality, THE HINDU, (18th May, 2019), https://www.thehindu.com/news/cities/Madurai/families-of-honour-killing-victims-share-stories-of-caste-brutality/article27173383.ece.

[30] Atul Thakur &HimanshiDhawan, Love Third Biggest Murder Motive in India, TOI, (18th November, 2019), https://www.thehindu.com/news/cities/Madurai/families-of-honour-killing-victims-share-stories-of-caste-brutality/article27173383.ece.

All of these factors weaken the case of the victims, thus leading to acquittals. The situation is even graver in cases of honor killings where the law enforcement agencies act "hand in glove" with the accused, as happened in the Manoj and Babli case, in Haryana, where the police withdrew protection and landed the couple in a death trap laid out by the girl's family. It is unfortunate that the public officials, inhabiting the same social background, let their prejudices and biases cloud their judgment and forsake their public duty in the name of 'honor' of caste.

From above discussion, it can be safely assumed that legal education has a very crucial role to play in ensuring justice in an inherently unjust society. In recent years, attempts have been made to dilute the stringent provisions of the SC & ST (Prevention of Atrocities) Act, 1989, Arguments have been raised that provisions meant for protection of dalits are being misused by them to falsely implicate members of other castes. Such an argument lacks understanding of the functioning of the caste system and its adjunct realities. Caste system ensures observance of the dogmatic rules and principles by ensuring their internalization by the members of the society. Thus, it unleashes the process where a Brahmin internalizes 'pride and authority' and a dalit internalizes 'shame and guilt'. Therefore, in such cases it is pertinent to remember that a single report being filed under Atrocities Act is a symbolic act of resistance against deep-rooted biases, prejudices, dogmatic beliefs and societal morality.

It is to be kept in mind that apt law on paper will not ensure justice to the victims when the fight is against established customs of the society. Thus, custodians of the fundamental rights of the citizens cannot ensure them justice in true sense when they fail to acknowledge caste as a motivating factor behind commission of crimes in a deeply casteist society. Excluding caste component from crimes leads us to a precarious situation where "crimes happen precisely because caste exists but hardly get punished because the legal process does not recognize these crimes as caste crimes, and make it into a property dispute or murder of revenge or a rape of lust and passion".[31]Mere application of law in a "positivistic way" with complete

[31] Dalwani, supra note 11.

disregard to socio-political-cultural context of the lived realities of people can lead to situations of gross violation of human rights.[32] Moreover, disregard for 'caste positioning' of the public officials can cause grave injustice as "loyalty and commitment towards one's own caste and community overrides the sense of justice"[33].

These cases are perfect examples showcasing obedience by the majority of the members of the society to 'rule of society' rather than 'rule of law'. This concept has been dealt in detail in the next section of 'Rule of Law versus Rule of Society'.

III. 'RULE OF LAW' VERSUS 'RULE OF SOCIETY'

Dr. B. R. Ambedkar, the chief architect of the Constitution of India, vehemently opposed the "graded inequality" perpetuated by the inherently cruel and unjust caste system. He highlighted the entrenched graded inequality within the 'law of marriages' by quoting several instances from Manusmriti, such as:

> *III.12. For the first marriage of the twice-born classes, a woman of the same class is recommended but for such as are impelled by inclination to marry again, women in the direct order of the classes are to be preferred.*
>
> *III.13. A Shudra woman only must be the wife of a Shudra; she and a Vaishya, of a Vaishya; they two and a Kshatriya of a Kshatriya; those three and a Brahmani of a Brahmin.*

Dr. Ambedkar recognized the potential of law to act as a "counter majoritarian force", possessing the ability to right the wrong of centuries. However, he admitted oflimitations of the state based laws when they stand in complete opposition of 'law of society'. This 'law of society' is sometimes more powerful than the state based law as it has the backing of the majority of the society. Ambedkar captured the delicacy of the whole situation in following words:

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[32] Id.
[33] Id.

> *Rights are protected not by law, but by the social and moral conscience of society. ...But if the Fundamental Rights are opposed by the community, no law, no parliament, no judiciary can guarantee them in the real sense of the word. What is the use of the fundamental rights to the Negroes in America, to the Jews in Germany and to the Untouchables in India? As Burke said, there is no method found for punishing the multitude. Law can punish a single, solitary recalcitrant criminal. It can never operate against a whole body of people who are determined to defy it. Social conscience is the only safeguard of all rights fundamental or non-fundamental.*[34]

Till now, in our society, "caste-based rules of society enjoy the status of law, with the law of the state being consigned to being nothing more than an ineffectual commandment."[35]Caste based rules enjoy social legitimacy, thus raising doubts on their efficacy in providing the necessary succour to the 'untouchables' of the society,

> *Law guarantees the untouchables the right to fetch water in metal pots. Hindu society does not allow them to exercise these rights. . . . In short, that which is permitted by society to be exercised can alone be called a right. The right which is grounded by law, but is opposed by society is of no use at all.*[36]

In such a scenario, it is quite obvious that the doubts will be raised on efficacy of state based laws in uprooting the evil of caste based atrocities, discrimination and prejudicial biases. Therefore, it is crucial that the legal education, within the country, is viable enough to prepare lawyers, with necessary skills and legal acumen, to combat unique socio-legal challenges born out of caste system. In the next section, broad outlines of a socially relevant legal education have been charted out.

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[34] Dr. B. R. Ambedkar, Their Wishes and Laws Unto Us, (1979); See Aakash Singh Rathore &Garima Goswamy, Rethinking Indian Jurisprudence: An Introduction To The Philosophy Of Law118(1st ed. 2018).

[35] Id.

[36] 1, DR. B.R.AMBEDKAR, 'What Path to Salvation?'AMBEDKAR SPEAKS, (2013); See supra note 119, at 34.

IV. SOCIALLY RELEVANT LEGAL EDUCATION

Upendra Baxi had suggested that "any curriculum related to law is socially relevant as law itself is a social process"[37]. However, he cautioned further that mere imparting of legal education cannot be equated to impartation of a socially relevant legal education as one can "learn about a legal rule or principle but it is totally different thing to question their social usage, social utility, purpose and impact"[38]. To create socially sensitised lawyers it is crucial to devise a socially relevant curriculum.

A curriculum is a delineation of the entire process of what, why, when and how a student is going to learn. A quality curriculum possesses a deft balance of all the four components, namely development of curriculum, curriculum itself, implementation of curriculum and its evaluation. A good curriculum is designed in a particular manner that it encapsulates all the contemporary social, political and economic progressions of the society.In India, education falls within the concurrent list thus both Centre and State have the power to legislate on the matter of education. Legal education in India is regulated harmoniously by both University Grants Commission (UGC) and Bar Council of India (BCI). They both delineate the overall structure, component and fundamentals of the curriculum of legal education in India.

To assess the social relevance of legal education, imparted within the country, it is essential to make a reference to the several reforms brought in the legal education, over a course of past few decades, that has made it acquire the present form and structure. Legal education has definitely come a long way since Independence. Prior to independence, the condition of legal education was poor in the country. A good quality legal education was the prerogative of those who could afford it. Thus, "haves" of the society would often send their children to Universities, located outside the country, to acquire legal acumen, skill and earn the epithet of 'barrister'. Post-independence, a renewed concern was felt to improve the standard of legal education within the country. From all corners, a common consensus

[37] Prof. UpendraBaxi, Notes Towards a Socially relevant Legal education, A working paper for UGC regional Workshop in Law, (1975-76).
[38] Id.

emerged that a good legal education is fundamental to ensure effective "rule of law" within the country and to herald a new social order which is just, fair and equal. Since then, several committees and commissions have been constituted to improve the standard of legal education within the country.

In 1948, a University Education Commission was constituted under the Chairmanship of Dr. S. Radhakrishnan. The Commission report highlighted the poor condition of institutions imparting legal education in the country; lack of full time law teachers, adequate research facilities and scholarship. To improve this condition, a slew of measures were suggested such as "re-organisation of law colleges; requirement of 3 year course in pre-legal studies; three year degree course in specified legal subjects with last year being dedicated to practical work; adequate opportunities for research"[39]. In this Committee it was also insisted that legal education should also contribute to social change. However, recommendations of this Committee largely remained unimplemented.

In 1958, the 14th Law Commission report titled "Reform of Judicial Administration", headed by Mr. Setalvad, lamented that the "law colleges are producing plethora of half-baked lawyers who do not even have basic knowledge of law and are considered drones and parasites."[40] The report also highlighted that there is a mushroom growth of law schools, where "legal education is imparted by part time teachers of mediocre ability and indifferent merit."[41]

Another major milepost in improving the condition of legal education in the country was promulgation of Advocates Act in 1961. This Act laid foundation for setting up of Bar Council of India (BCI) and State Bar Councils. The BCI was entrusted with several duties such as to "promote and support law reforms"[42], "to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such

[39] S. Radhakrishnan, The Report of the University Education Commission (1948), http://www.education.nic.in/cd50years/n/75/7Y/Toc.htm.
[40] The 266th Law Commission Report, (2017),http://www.latestlaws.com/wp-content/uploads/2017/07/Law-Commission-Report-No.-266-The-Advocates-Act-1961.pdf.
[41] Id.
[42] Advocates Act 1961 § 7(e).

education and the State Bar Councils"[43], to conducting visits and inspections of Universities and providing of licenses to the universities[44]. However, despite establishment of these statutory bodies, the vision of 1948 Committee remained elusive and the condition of legal education still remained a matter of concern.

In 1970s, Prof. Upendra Baxi bemoaned the poor condition of legal education in the country in his working paper titled *Notes Towards a Socially Relevant Legal Education*. He described legal education to be predominantly suffering from substandard law teachers, rote learning methods and outlandish curricula. For this, he suggested, making legal education more socially relevant and introducing new pedagogical methods of nature such as problem posing method. He had also suggested introducing integrated five year law programs in form of National Law Schools and teaching of other social science subjects, such as history, political sciences, international relations and so on, as part of coursework. He also suggested setting up of "Special Legal Pedagogy Institute" for training teachers, curriculum planning and other related matters[45].

In 1973, Expert Committee on Legal Aid, headed by Justice V. R. Krishna Iyer, gave a crucial recommendation of making legal aid clinics compulsory in law schools and promoting students in law schools to give aid to poor and become vigilant to the needs of the society. However, not much impact of these suggestions was seen on legal education in the country. More than three decades had passed since independence; still a need was felt to raise the standard of legal education at par with other professional courses, such as engineering and medical. With opening up of domestic markets, strong winds of globalisation and commercialisation were experienced by the nation. In such a scenario, there was an added pressure to streamline legal education and to create a generation of young lawyers, skilled to cater to the needs of the emerging market economy. Thus, the task to set up autonomous national law schools, free from all political and bureaucratic hindrances, was left to Professor Madhav Menon. He introduced five year law degree with

[43] Advocates Act 1961 § 7(h).
[44] Advocates Act 1961 § 7 (i).
[45] Baxi, supra note 40.

rigorous clinical programme to keep law education timely and relevant in the country. These law schools definitely performed better in terms of providing lucrative placements to the students and improving their job market related skills. However, the law schools in their focus on producing a crop of corporate lawyers somewhere neglected the need to produce lawyers who would specifically take up socio-legal issues affecting the millions of the country.

184th Law Commission Report released in 2002 recognized these lacunae and recommended that lectures in classrooms should be complemented by problem methods, case methods and moot courts. It referred to the *Mac Crate Report* of American Bar Association to highlight the significance of problem posing method of teaching and making clinical legal education mandatory. It also suggested introducing ADR subjects in law schools compulsorily to give impetus to alternative forms of dispute resolution[46].The National Knowledge Commission's 2007 report also recommended making legal education more qualitative and socially driven. It emphasised on making legal education in India justice oriented to fulfil the cherished ideals of the Constitution.

In the year 2016, 86th Report of Rajya Sabha Parliamentary Standing Committee on *Promotion of Legal Education and Research under Advocates Act, 1961* was released which suggested a slew of measures to improve standard of legal education within the country. The report suggested laying more emphasis on andragogy rather than pedagogy[47]. It emphasized on making legal education more student centric rather than teacher centric and moving from theoretical form of teaching legal principles to application based learning experience[48]. Furthermore, it advocated for granting more autonomy to Universities in designing their law courses, especially LL.M. courses[49]. Recognizing the absence of a socially relevant

[46] 184th Law Commission Report, (2002), http://lawcommissionofindia.nic.in/reports/184threport-PartI.pdf.

[47] Report on Promotion of Legal Education and Research under Advocates Act, 1961, RAJYA SABHA Parliamentary Standing Committee, 86 (2016), http://164.100.47.5/newcommittee/reports/EnglishCommittees/Committee%20on%20Personnel,%20PublicGrievances,%20Law%20and%20Justice/86.pdf.

[48] Id.

[49] Id.

legal education, the 266th Law Commission Report, 2017 cited Article 21[50] and 39A[51]of Indian Constitution to highlight the fact that the legal education has to be socially relevant, and at par with the developments in the society and world at large, to fulfil the cherished ideals of the Constitution.

Despite, several reforms in legal education it is hard to say that it has been able to become socially relevant. The Indian legal education, in words of Paulo Friere, suffers from the excesses of "narration sickness" and "banking concept".[52] Narration sickness means teaching of subjects in an alienated, static and compartmentalised way. In India, classrooms are 'teacher-centric' instead of 'student-centric' thus limiting classroom discussions. Teachers, usually 'narrate' contents of a topic in a mechanical way, without explaining students the significance and relevance of the topics taught. Students act as mere banks or depositories, patiently 'depositing' the recited content to be reproduced during exams. The legal education, by being vary of the contemporary problems of the Indian society, suffers from these pedagogical traits.

The students in law schools are taught various law subjects in an alienated way, without referring to their relevance and significance to the unique social reality of Indian milieu. In words of Prof. Baxi, students are taught about law of property but never about the agrarian laws or laws having impact on lives of farmers. Similarly students are taught about labour laws but without having referred to the problem of rural and urban unorganised sector workers. Even if any legal education curriculum refers to such contemporary socially relevant issues it is a mere "sprinkling of such subjects" lacking the nuanced, in-depth understanding of the subject.[53]He also highlighted the problem of "narration sickness" and "banking concept" in legal education by referring to the way in which students are taught judgements and precedents without ever referring to dissenting opinions or concurring opinions.[54]

[50] INDIA. CONST. art. 21.
[51] INDIA. CONST. art. 39A.
[52] Baxi, supra note 40.
[53] Id.
[54] Id.

The students mostly learn about topics which are completely "alien" to their existential realities. The subject of jurisprudence taught to students abounds in references of Austin, Kant and Salmon. However, there is absolutely no reference to Indian legal philosophers such as Dr. B. R. Ambedkar, Gandhi or VinobaBhave. Studying these philosophers is crucial as they discuss about various challenges that are unique to India. Abounding Jurisprudence studies with western philosophers, without referring to Indian legal philosophers, falls short in creating socially relevant legal education.

Baxi had also suggested that "the traditional conceptualization of the law in the common law world is largely in terms of judicial process. Such conceptualization leads, though not necessarily, to isolation of legal processes from social processes and purposes…We have no problem of an overly technocratic legal education (as the advanced countries have). Rather, we have an insufficiently technocratic legal education. So if a sound technocratic legal education is socially relevant, let us first seek to provide it".[55] Therefore, to make legal education socially relevant, Prof. Baxi had suggested few suggestions which are as follows:

1. Instead of monologues recited by law teachers, emphasis should be on dialogue between students and teachers in the classroom. "Problem posing" method can serve as a better alternative as it will act as an "act of cognition, not transferrals of information". This method will ensure that students question or challenge all that is taught to them rather than acting as mute receptacles.

2. Usage of "case method" teaching but with equivalent focus on insisting students to question the judgments and precedents by making them aware of the dissenting judgments or the concurring ones.

3. Inclusion of socially relevant subjects or realigning the existing ones to make them more socially relevant. Also, impetus is to be given to critical thinking rather than mere reception of information without ever questioning it. Therefore, the form of law education should be more "subversive" than "accepting".

[55] Id.

After having understood the contours of a socially relevant legal education, it is to be seen whether the present legal education, imparted within the country, is socially relevant or not. The analysis of the same has been provided forth in the next section.

V. ANALYSIS OF THE THREE YEAR LL.B. CURRICULUM

For this research, 3 year LL.B. syllabus of three Universities, namely Delhi University, Punjab University and Pune University, has been chosen[56]. The rationale behind choosing 3 year LL.B. syllabus of these Universities was that the students enrolling for this course come from diverse educational backgrounds, after completing their graduation in Commerce, Literature, Engineering, Chemistry, Political Science, Sociology and so on. 5 year LL.B. syllabus is still sprinkled with subjects such as sociology, political science, gender studies whereas no such provision is available to the students of 3 year LL.B. courses. In this context, syllabus of 3 year LL.B. course of these Universities would be analysed to test their social relevancy, especially in an inherently casteist society.

Due to paucity of time and availability of the resources, study involves only analysis of the 3 year LL.B. syllabus of three Universities. Also, personal experiences of the researchers who have been students of two of the three Universities came handy during analysis of the curriculum for its social relevancy.

Though ours is an inherently casteist society, where everyone follows and practice principles of caste system consciously and unconsciously, but no major discourse is generated around its virulent practices and forms of discrimination. The Constitutional Law paper makes student aware of various fundamental rights, which guarantees equality[57], right against discrimination on grounds of religion, race, caste, sex or place of birth[58],

[56] See, links of LL.B. syllabus of abovementioned three Universities are given, Delhi University LL.B. syllabus, http://www.lawfaculty.du.ac.in/files/LLB/Subjects_and_Courses_of_Study_for_LL.pdf; Panjab University LL.B. syllabus, https://puchd.ac.in/syllabus.php?qstrfacid=7; Pune University LL.B. syllabus, http://www.unipune.ac.in/university_files/syllabi_new/syllabinew.html.

[57] INDIA CONST. art.14.

[58] INDIA CONST. art. 15.

access to shops, bathing ghats, hotels, wells, tanks irrespective of one's religion, race, caste, sex or place of birth[59], abolition of untouchability[60], right to life[61], right to Constitutional remedies[62]. Thus, study of Constitutional Law prerequisites "understanding inequalities of caste, religion, gender and disability that plague Indian society. But they are seen through the concepts of equality and discrimination"[63].Thus, mere study of Constitutional provision does not lead to understanding about "other aspects of living in a caste society"[64]. Moreover, students do not learn about caste based oppression, hierarchy and discrimination rather they study about affirmative action in form of reservation. It was observed that study of Article 15 centres around the topic of reservation, with reference to cases such as Indra Swahney case[65] or M. Nagaraj Case[66]. It leads to percolation of false belief that only reservation is the panacea for centuries of wrong, oppression and discrimination.

Moreover, under Criminal Law, fundamentals of IPC provisions on crime of murder and rape are taught without referring to various social circumstances which propel such crimes. The motive part misses out on including 'caste positioning' as one of the factors behind commission of such ghastly crimes without any impunity. This observation is substantiated as cases such as Bhanvari Devi case and Mathura rape case[67] are missing from the syllabus; these cases highlight struggle of dalit and tribal women to access justice in an inherently patriarchal and casteist society. Non-instruction of law of crimes, with reference to peculiar societal issues, leads to travesty of justice as happened in Khairlanji case which was reduced to a property dispute, by the Bombay High Court, in complete disregard to imprints of 'caste atrocity' written all over the case. Due to non-recognition of the case as one of "caste

[59] INDIA CONST. art. 15(2).
[60] INDIA CONST. art. 17.
[61] INDIA CONST. art. 21.
[62] INDIA CONST. art. 32.
[63] Dalwani, supra note 11.
[64] Id.
[65] Indira Sawhney & Ors v. Union of India, AIR 1993 SC 477: 1992 Supp (3) SCC 217.
[66] M. Nagaraj & Othrs. v. Union of India, AIR 2007 SC 71.
[67] Tuka Ram &Othrs.v. State of Maharashtra, AIR 1979 SC185.

atrocity", Bhaiyalal Bhotmange, the sole survivor of the family, was deprived of the due compensation.[68]

Jurisprudence is a crucial component of syllabus of all three law colleges. Study of philosophy of law is essential to understand the fundamentals of the law, its creation and application. Though, there is no denying that the theories of Western philosophers is crucial to develop understanding about law but absence of Indian philosophers of law results in complete ignorance of the unique societal challenges of India.

> *"Not only has India seen legal transplantation, but also the transplantation of legal theories and the overall philosophy of law. But it has not at all been established that this transplantation of concepts from alien contexts bears relevance to the Indian ground situation, to Indian conditions, legal, political, social, cultural or whether they possess any real validity in India at all."*[69]

It is crucial to include Ambedkar's jurisprudence in the syllabus to understand the ability of law to act as counter majoritarian force, possessing the ability to right the wrong. Ambedkar's exposition of state based law and law of society is crucial to understand the continued existence of caste system and its discriminatory practices within the country. Also, non-inclusion of his jurisprudence, keeps many students unaware about the idea of "constitutional morality". Therefore, it is crucial that the syllabus of jurisprudence includes seminal texts, speeches, commentaries and essays of Dr. B. R. Ambedkar. It is sad that a text like *Annihilation of Caste*[70] is not part of law course in India whereas it is part of curriculum in Columbia University.

Family Law is compulsorily taught as part of LL.B. course in all the Universities. However, legal principles are taught without reference to their historical significance and purpose. A progressive initiative, in form of The Hindu Code Bill, was envisaged to "do away with the shastra or varna basis

[68] Supra note 17.
[69] Rathore & Goswamy, supra note 34.
[70] Dr. B. R. Ambedkar, Annihilation Of Caste(1936).
[71] RATHORE &GOSWAMY, supra note 34.

of Hindu Law"[71]. This Bill did not see the daylight due to strong opposition. However, four legislations, namely Hindu Marriage Act 1955, Hindu Succession Act 1956, the Hindu Minority and Guardianship Act 1956 and the Hindu Adoption and Maintenance Act 1956, could be passed. These Acts allowed for end of polygamy, inter-caste marriages and adoption of children from different caste.[72] A very important case, which is often missing from the Hindu Law syllabus, explains the significance of Hindu Law from the perspective of caste is Shri Krishna Singh v. Shri Mathura Ahir[73],

> *In this particular case, a deeply religious father had given away his property to a member of a lower caste instead of his son. The son filed a case and it was argued that the defendant had no right over the property for he was a Sudhra. According to the Dharmashastra, he could not become a sannyasi. This implied that he could not be the mahhat (head) of the matt (religious community) to which the property would belong. The Supreme Court's verdict was that even though as a result of custom, usage or practice or of sacramental precept Shudra might have been considered incapable of being a Sannyasi at one point, such disqualification ceased to exist long ago, and can no longer be held to exist.*[74]

Another noteworthy point in the entire discussion is the absence of The Scheduled Castes and Scheduled Tribes (Prohibition of Atrocities) Act, 1989 from the syllabus. This Act weaves a crucial protection framework, from caste atrocities, for the dalits and tribals of the society. It is imperative for a socially relevant legal education to include the major legal frameworks essential for protection of the rights of minorities, marginalised and oppressed classes of the society. Another important piece of legislation missing from the syllabus is The Prohibition of Manual Scavenging Act 2013. Labour Laws are taught without referring to this piece of legislation. Thus, without acknowledging the basic human rights and labour rights of manual scavengers: the dalits. Though this Act is replete with lacunae, absence of it

[72] Id.
[73] Shri Krishna Singh v. Shri Mathura Ahir, AIR 1982 SC 686.
[74] Rathore & Goswamy, supra note 34.

from the syllabus not only perpetuates obliviousness amongst the students, but also limits the possibility of critically analyzing the Act. Therefore, the need of a special module on 'caste and law' is palpable. As young law students, armed with necessary knowledge of law, can play a pivotal role in bringing significant legislative changes, crucial executive enforcement and pertinent judicial interpretations.

It is also necessary to mention that in line with mandate of BCI, clinical legal education, in form of internships and moot court competitions, has been made compulsory in 3 year LL.B. courses. However, it is very rare that moot problems are centred on specific socio-legal complexities involved in caste issues. Also, internship opportunities rarely expose students to specific legal issues born out of virulent discriminatory practices of caste system. Thus, students never really acquire the specific skills requisite in arguing cases centred on caste. Therefore, an emphasis should be laid on "creating a sociological understanding of the caste system, its historical role in hierarchy and oppression in India through a solid social sciences education as well as the case law in current times woven into the core courses such as crime, property and family law."[75]

VI. SUGGESTIONS AND CONCLUSION

The Sustainable Development Goal 4 deals with education in the 2015 Development Agenda. It aims to ensure "inclusive and equitable quality education and promote lifelong learning opportunities for all". It is crucial to align legal education curriculum in the direction of achieving social change and transformation. In the case of *SR Deepak vs. Tamil Nadu Ambedkar Law University & Ors*[76] it was stated that the legal education should be at par to deal with legal challenges of the world. 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. Thus, it is essential to redirect our legal education curriculum in the direction of achieving the cherished ideals of the Constitution; to equip generation of lawyers ready to fulfill their "constitutional morality".

[75] Dalwani, supra note 11.
[76] SR Deepak v. Tamil Nadu Ambedkar Law University & Ors, Madras High Court 2016.

It is crucial to teach law students through specific courses about caste, gender, minority rights as these are inevitable part of social, economic and political life in India. Most students believe that caste system is no longer prevalent in the country; this belief is formed due to their own personal experiences. However, the "legal problems that arise in India are deeply entrenched with the caste question and thus as lawyers, students need to be sensitive to the aspect of caste while dealing with cases."[77]It is essential that students learn to dispel their own myths, beliefs and prejudices and get sensitized to issues of society. As "sociological understanding of the reality of caste and knowledge of the harsh experiences of individuals and groups based on their social identity may change the attitude of law students, which in turn could alter legal practice."[78]

It is also necessary that the dominant narratives in every domain of study are toppled. The designers of curriculum of colleges have been those who come from privileged, upper caste backgrounds. Therefore, the issue of caste has not been given enough weightage. It is high time that legal curriculum is designed keeping in mind the hierarchical, oppressive and discriminatory nature of caste and its deep rootedness in Indian society. Therefore, it is crucial that legal education is made socially relevant so that "free India finds its conscience in its rugged realities and no more in alien legal thought."[79]

[77] Dalwani, supra note 11.
[78] Id.
[79] Rattan Lal v. Vardesh Chander, AIR 1976 SC 588.