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## Legal Education - Producing Responsible Law Graduates

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*'Education is the point at which we decide whether we love the world enough to assume responsibility for it and by the same to ken save it from the ruin which, except for renewal, except for the coming of the new and young, would be inevitable.'*<sup>1</sup>

### Introduction

Legal education is the basic which only would create such responsible and responsive social lawyering. Every society has its contingent demands now need to be fulfilled by an instrument of law, which is purposive human enterprise. In a democratic welfare society, the significance of legal education cannot be over emphasized. Today law is viewed not merely as an instrument of social control but also as an instrument of social change. Such education will inculcate into the students the significance and relevance of democratic culture. As professional education Legal education equips law students for filling different roles in society, and discharging various law jobs, the range and scope of which are always expanding in the modern democratic society, e.g., policy makers, administrators, lawyers etc.<sup>2</sup> A legitimate goal of legal education is to produce graduates who understood professional norms, behaviors and ethics, and would be committed to practicing them. Indeed, most would have it that it was an *obligation* of legal education to do so.<sup>3</sup>

The Bar Council of India appointed a 'Legal Education Committee' which observed:

"If a qualitative transformation of Indian legal education is to be achieved three challenges have to be faced:

- (i) Modernizing of syllabi to made them socially relevant;
- (ii) Multi-disciplinary enrichment of law curriculum; and
- (iii) Corresponding pedagogic modification"<sup>4</sup>

The key issue with the current state of affairs in India is that we are blindly aping the western way of life without giving due consideration to alternative models of human growth and prosperity that are more holistic. We have continued to ignore the great ideas and works conceptualized by various seers and thinkers that have their origins in India and are largely based on India scriptures or philosophy of life.

<sup>1</sup> Hannah Arendt 'The crisis in education' in Between Past and Future, (1961) 193.

<sup>2</sup> Dr. Tripathi Kshemendra Mani, "The Role of Legal Education: Manifestation and Challenges", Vol. XXXIX (2), Indian Bar Review, 2012, p.102.

<sup>3</sup> Gary Davis, International Conference On The Future Of Legal Education, Georgia State University College of Law, Atlanta, GA, USA (20-23 Feb) Report to Council of Australian Law Deans (Summary), 2008

<sup>4</sup> Bhatt Vijay, "Legal Education: Role of Bar Council", Vol. XL (4), Indian Bar Review, 2013, p. 8.

What is needed today in the field of education is not so much increased facilities or sophisticated equipment, but a new vision of education. The quality of one's life depends on the quality of one's aim. Therefore, it is necessary for education to respond to the highest aims of life.<sup>5</sup>

The continuing education is now a felt-necessity for all professionals. In the field of law, it has become imperative all more because of the falling standards of legal education in the universities and the rising tide of legislation in various fields. Professional bodies like the Bar Councils and Bar Associations have already initiated programs of continuing education at the notional, regional and local levels. However, the programs now available are far too inadequate to meet the needs and demands of the profession. It is a matter of great satisfaction that program of continuing legal education has created interest among lawyers. In fact in developing country like ours with a democratic commitment, the legal profession has a challenging role to play and solemn obligation to fulfill.<sup>6</sup>

### **The Indian Educational Ethos**

A general privilege in India, for very obvious reasons, has been the rich cultural ethos. The primary education at the school level inculcates the very genesis of legal background. Knowingly or unknowingly the child, at its very inception, starts understanding the legal perspectives, although may not be actually aware of. The religious and spiritual training in all families, comprising of any religion, incorporates in his personality the modern notions of norms, legal and jural postulates and he mingles up with it. Later, he rationalizes that this aspect of formal legal education, which he undertakes, has already been engulfed in his childhood. The perception is that, in order to understand law, a person must have the common sense and the social fabric of the nation.

Certain salient features of Indian ethos, which if imbibed in a person entering into the legal field or domain shall be successful, irrespective of the specialization he chooses to enter, are as:-

1. Atmano Mokshartham, Jagat hitaya cha: All work is an opportunity for doing good to the world and thus gaining materially and spiritually in our lives.
2. Archet dana manabhyam: Worship people not only with material thing but also by showing respect to their enterprising divinity within.
3. Atmana Vindyate Viryam: Strength and inspiration for excelling in work comes from the Divine, God within, through prayer, spiritual readings and unselfish work.
4. Yogah karmashu Kaushalam, Samatvam yoga uchyate: He who works with calm and even mind achieves the most.
5. Yadishi bhavana yasya siddhi bhavati tadrishi: As we think, so we succeed, so we become. Attention to means ensures the end.
6. Parasparam bhavayantah shreyah param bhavapsyathah: By mutual cooperation, respect and fellow feeling, all of us enjoy the highest good both material and spiritual.
7. Tesham sukum tesham shanti shaswati: Infinite happiness and infinite peace come to them who see the divine in all beings.
8. Paraspar Devo Bhav: Regard the other person as a divine being. All of us have the same consciousness though our packages and containers are different.<sup>7</sup>

<sup>5</sup> *Supra* 2, at 102

<sup>6</sup> Ram Chandra Jha, "Seminar on Emerging Social Economic Trends- Role of Lawyers and Legal Institutions", vol. XXVI (2), Indian Bar Review, 1999, p.145.

<sup>7</sup> *Supra* 2, at 100-101.

## Producing Responsible Law Graduates

*“It is essential that society should refuse to give exclusive importance to success, career and money, and that it should insist instead on the paramount need of the full and real development of the student by contact with the spirit and the growth and manifestation of the Truth of the Being in the body, life and mind.”*

*Sri Aurobindo*

Legal profession is one of the most brilliant, learned and challenging profession. An advocate stands for justice more than a judge, as he pleads for it. The profession of law needs not only high depth of knowledge of law and other social sciences but also a sense of social responsibilities which calls for high and noble conduct.<sup>8</sup>

### His Duty and Responsibility

The lawyer is a much-maligned person. For another, by virtue of his attainments and qualifications in the profession, he has to discharge duties and responsibilities in society which no other citizen has to do. The profession of law is a great profession, the most brilliant and attractive of the peaceful professions, with responsibilities, both inside and outside it, which no person carrying on any other profession has to shoulder. It is a great controlling and unifying institution which placed upon each his duties, gives to each his rights, and enforces from each his obligations. It is composed of a body of men with a high sense of honor and marred by far less mutual jealousy or ill will than any other. The work of the legal profession is not to create disputes; but when disputes arise, lawyers are called in to settle them, and in truth, they are the greatest peacemakers. To discharge that responsibility adequately the lawyer must make himself equal to the task. The profession calls for great knowledge, high mental capacity and wide culture.<sup>9</sup>

Mr. John A. Macaulay, past President of the *Canadian Bar Association*, put it this way: “the business of law is not to foment quarrels, but to oppose them; not to create differences, but to prevent them; not to entangle human affairs in ambiguities, but with fairness of vision and exactness of phrase to provide beforehand for certainty. Above all, whether the transaction be great or small, whether its immediate effect may extend to few or to many, to apply to it with vigilance and fearless impartiality the healing principles of justice and freedom”.<sup>10</sup>

Unlike modern careers such as those related to management, computers, bio-technology, call centers, law in India has a glorious history. Decades ago, it was meant for those from a well-to-do family. Almost all the leadership of independent India comprised lawyers. Gandhiji, Nehru, Rajendra Prasad, Jinnah and almost all freedom fighters were all lawyers. Lawyers had a significant impact on the destiny of this nation. The present is not as glorious as past but it is not bleak either.<sup>11</sup>

It was emphasized, especially in relation to assisting in the development of a sound professional identity, that law students should be provided with opportunities to encounter and be inspired by appealing examples, e.g. of those who are known to have upheld the high values of the profession, or of law and

<sup>8</sup> Sirohi, J.P.S., “*Professional Ethics, Accountancy for Lawyers Bench-Bar Relations*”, 5th Ed., Allahabad Law Agency, Faridabad, Haryana, 2010, p. 110-111.

<sup>9</sup> K.V. Krishnaswami Aiyar, “*Professional Conduct and Advocacy*”, 3<sup>rd</sup> Ed, Oxford University Press, Madras, 1953, p.1.

<sup>10</sup> Robert G. Simmons, “the Duty of a Lawyer”, Ed Dr. B. Malik, “*The Art of A Lawyer*”, the University Book Agency, Allahabad, 9<sup>th</sup> Ed, 1999, p.194.

<sup>11</sup> S.N.P. Sinha, “Role & Responsibility of Young Advocates in Justice Delivery System”, vol. XXXVIII (4), *Indian Bar Review*, 2011, p. 15.

the legal system being used as a force for justice. Ideally, students would be required to report upon such encounters, reflecting upon their own emerging professional identities in light of them.<sup>12</sup>

A commendable step of Bar Council of India (BCI) which is highly praise-worthy relates to promoting legal education and laying down standards can be mentioned as the introduction of 5 yrs. course in law, which contains a high degree of practical training like court visits, moot- courts, public interest layering, drafting and pleading and professional ethics. Subjects such as mentioned above enabled a law student to acquire basic knowledge relating to his professional requirement and makes him to a direct entry to the portals of judiciary without the assistance of any senior in the profession- 'a ready-made lawyer'.

The lawyer must equip himself with all relevant knowledge from other disciplines. Hence, the legal education itself should be restructured on the lines of knowledge from other disciplines. Thus, the research component as become a basic component of legal education and this 'sine qua non' for ushering in law reform. Thus, the lawyer from the very inception of his career must cultivate truth, honesty and moral excellence which will pay rich dividends and build up a strong and inestimable reputation of a high order.<sup>13</sup>

Judge Abbot Parry mentions **seven qualities** for the success of a lawyer in his profession, which is equally relevant in the field of law reform. The seven qualities are honesty, courage, industry, wit, eloquence, judgment and fellowship. To these qualities one more quality is added i.e., 'tact' by Krishnaswamy Iyer. 'Tact' as he puts it is nothing but mice perception of seeing and doing exactly what is best in the circumstances, as many lawyers have failed for want of 'tact', despite possessing unquestioned ability.<sup>14</sup>

The advent of computers, advancement of telecommunication techniques would certainly bring about a lot of changes in law and its implications. Training will enrich the talent of young lawyers. We want lawyers who could shoulder responsibility in rendering legal services to the society in a competent and effective manner. There should be dedication and hard work for success in legal profession. The introduction of workshop training to young lawyers is to ensure the improvement in their talents. The young colleagues have to make their services available under the free legal aid and advisory scheme so that the poor can be benefited. This is more necessary for the junior lawyers in the 21<sup>st</sup> century when the competition would be too much tough and only the fittest can survive.<sup>15</sup>

### His Social Obligations

Lawyer allows our professionals not only to grow as individuals and collectively but also the chance to take an active role in the advancement of society. Social responsibility is essentially an argument about the limits that apply to the fundamental moral obligation that lawyers have to faithfully play their role in the larger legal system. And it's equally worth noting that the obligation cannot be described without reference to that system, and to the role we want lawyers to play within it.<sup>16</sup>

In the case of *Indian Council of Legal Aid and Advice vs. The Bar Council of India*<sup>17</sup> the Supreme Court observed that, "It is generally believed that members of the legal profession have certain social obligations, e.g., to render "*pro bono publico*" service to the poor and the underprivileged. Since the duty of a lawyer is to assist the court in the administration of justice, the practice of law has a public utility flavor and, therefore, he must strictly and scrupulously abide by the Code of Conduct behaving

<sup>12</sup> *Supra* 3

<sup>13</sup> Dr. K.P. Pant Naik, "Legal Education and Research Vis-a-Vis Bar Council of India", 15<sup>th</sup> December, part 24, Kar. L. J., 2013(6), p. 41, 43.

<sup>14</sup> A.N. Chaturvedi, "Principles and forms of pleading, conveyancing and advocacy and professional ethics", 7<sup>th</sup> Ed, 1991, p. 385.

<sup>15</sup> *Supra* 6, p. 142.

<sup>16</sup> Dr. Banshi Dhar Singh, "Role of Advocate's In Promotion and Protection of Judicial Administration: A Critical Analysis", vol. XL (4), Indian Bar Review, 2013, p. 77.

<sup>17</sup> (1995) 1 SCC 732: AIR 1995 SC 691.

the noble profession and must not indulge in any activity which may tend to lower the image of the profession in society.”

Arthur T. Vanderbilt, Chief Justice of the Supreme Court of New Jersey, has mentioned functions of lawyer into five parts. He says:-

- a) A truly great lawyer is a wise counselor to all manner of men in the varied crises of their lives when they most need disinterested advice.
- b) A great lawyer is a skilled advocate, trained in the art of prosecuting and defending the legal rights of men both in the trial courts and on appeal.
- c) A great lawyer is to do his part individually and as a member of the organized bar to improve his profession, the courts, and the law. He says, “As *President Theodore Roosevelt* aptly put it, every man owes some of his time to the up building of profession to which he belongs.”
- d) His fourth responsibility is to act as an intelligent, unselfish leader of public opinion, and, lastly
- e) Every great lawyer must be prepared, not necessarily to seek public office, but to answer the call for public service when it comes. The attorney whose professional thought begins and ends with his own private clients is a pitiable mockery of what a great lawyer really is.

This summary brings out fully why the legal profession has been called an honorable and learned profession. Unfortunately in our country the emphasis on trying to improve the profession or trying to give unselfish guidance to public opinion is gradually getting less and less. Leading members of the bar are not inclined to help a deserving young man unconnected with them or in whom they are not interested, even though they know that he may later prove to be an asset to the profession.<sup>18</sup>

Nehru’s dream on the lawyer’s role in law is “**to bring rule of law nearer to rule of life**”.

Advocates should travel beyond their normal duties to the profession and take an active part in public life and other activities waiting to take his services most readily. As a priest in the temple of justice, lawyers must commit themselves to the following tasks:-

- i) Aid in the administrative of justice;
- ii) To maintain and defend the inalienable right to life, liberty and property of the people in society;
- iii) To offer succor to oppressed;
- iv) To maintain constitutional rights against all violations;
- v) Ruthless rapacity of an unbridled majority;
- vi) To restore the scapegoat and restore him to his proper place; and
- vii) Several other areas where his services are felt essential for the people to realize the benefit of all reforms.<sup>19</sup>

Therefore lawyers as the ‘live-wire’ of society should be in constant touch with people, to know their problems and suffering and constantly engage themselves in finding solutions for redressal. Hence it is his duty that he should interpret the law to promote social welfare or welfare of the people. As Bentham

<sup>18</sup> Justice Dr. B. Malik, “Introduction,” Ed by, Dr. B. Malik “The Art of A Lawyer”, the University Book Agency, Allahabad, 9<sup>th</sup> Ed, 1999, p.8.

<sup>19</sup> *Supra* 13, p.45.

puts it, “every law must promote maximum happiness of the maximum number of people” – popularly known as principles of utility.<sup>20</sup>

In the case of *In Re Sanjiv Datta, Secretary, Ministry of Information and Broadcasting*<sup>21</sup> Supreme Court stated that, “the legal profession is a solemn and serious occupation. It is a noble calling and all those who belong to it are its honorable members. The legal profession is different from other professions in that what the lawyers do, affects not only an individual but the administration of justice which is the foundation of the civilized society. Both as a leading member of the intelligential of the society and as a responsible citizen, the lawyer has to conduct himself as a model for others both in his professional and in his private and public life. The society has a right to expect of him such ideal behavior. It must not be forgotten that the legal profession has always been held in high esteem and its members have played an enviable role in public life”.

### His Responsibility as Officers of the Court

As a leader of society, lawyers have to play a dynamic role in ushering in law reforms. As Lord Eldon rightly puts it in the following observation “*a lawyer must live like a hermit and work like a horse*”. This calls for industry and hard-work with devotion and commitment on the part of legal professionals, like eminent jurists, who had great command over legal knowledge that they can recall at will any statutory provision. Law sits on the lips of such persons.<sup>22</sup>

While acting as officers of the court, they are required to maintain respectful attitude towards the court, bearing in mind that the dignity of the judicial office is essential for the survival of the society. To preserve the administration of justice under the law in the special responsibility of the professional lawyer in our Republic, who, in addition to being the pleader of his client, and the defender of his rights, is an officer of the Court. The lawyer has, therefore, to be learned in law, independent and devoted in his duty towards his client, who’s cause he is engaged to plead conscientiously, respectful and dignified in his address to the court and loyal to Constitution and the laws of the Republic. Such being the duties and responsibilities of the professional lawyer any undue hesitation in pleading for his client deserves to be viewed with disfavor.

In the case of *L. M. Dass vs. Advocate General, Orissa*,<sup>23</sup> Supreme Court has been held that an advocate must uphold the dignity of the court and must not do anything to bring the court itself into disrepute.

It has been said that the main tool for a lawyer is his freedom of speech and expression. Freedom of expression is one of the basic conditions for the progress of advocacy and for the development of every man including legal fraternity practicing the profession of law. It is essential to the rule of law and liberty of the citizens. The advocate or the party appearing in person, therefore, is given liberty of expression. But they equally owe countervailing duty to maintain dignity, decorum and order in the court proceedings or judicial process. The liberty of free expression is not to be confounded or confused with license to make unfounded allegations against any institution, much less the judiciary.<sup>24</sup>

At the same time lawyer’s responsibilities is to ensure and maintain the quality of the legal system. The vehicle of administration of justice is entirely based for movement on its two wheels, viz., advocacy and judiciary. The Bench and the Bar, both play equally important co-operative roles in proper discharge of the administration of justice. The lawyers inform the courts the facts of the cases and the case-laws on the basis of which, they seek reliefs for their clients. Being officers of the courts, it is incumbent upon

<sup>20</sup> See for details Bentham’s ‘theory of legislation’, p.1.

<sup>21</sup> (1995) 3 SCC 619, Para 12.

<sup>22</sup> *Supra* 13, p.44

<sup>23</sup> AIR 1957 SC 250

<sup>24</sup> *Supra* 16, p. 68-69.

the lawyers to assist the courts in arriving at correct conclusions in the cases. The Judges administer justice when they are informed of the relevant case-laws by the lawyers to decide the cases.<sup>25</sup> A famous Chief Justice of an American Court once observed: “it was not until I was 50 that I began to understand that the decision in every great case is likely to be written with the life-blood of some lawyer.” If not given life blood, have sweated blood, which is the highest tribute to the devotion of the lawyer to his duty in court.<sup>26</sup>

Great lawyer **John Davis**, who way back in 1946 addressed the association of the Bar of the City of New York with these memorable words: “True, we build no bridges. We raise no towers. We construct no pictures.... There is little of all that we do, which the eye of man can see. But we smooth out difficulties; we relieve stress; we correct mistakes; we take up other men’s burdens and by our efforts we make possible the peaceful life of men in a peaceful state.”<sup>27</sup>

Advocates, in addition to being professionals, as officers of the courts have to play a vital role in the administration of justice. Accordingly, The Bar Council of India framed the set of Rules on professional standards that govern their professional conduct arise out of the duty that they owe the court, the client, their opponents and other advocates. Rules on the professional standards that an advocate needs to maintain are mentioned in Chapter II, Part VI of the Bar Council of India Rules. These rules have been placed there under section 49(1) (c) of the Advocates Act, 1961. Where Section I speaks about - Duty to the Court, Section II Duty to the Client, Section III - Duty to Opponent and lastly Section IV - Duty to Colleagues.

Therefore, to be a good and responsible advocate one must have a personality, a command over the language, a good voice, confidence in one’s own self, a capacity for clear and logical thinking and overall a capacity to express one’s thoughts in a brief, clear and logical manner. When he enters in to the legal profession his object is not merely to make money but to give a meaningful life to law. The morality of a lawyer must be far superior in comparison to any other intellectual. Capability to fight injustice is the real test. Lawyers have been the soldiers of peace and prosperity due to their individual achievements and also because of their rendering professional service in free and fearless manner.<sup>28</sup> John Stuart Blackie quotes that ‘money is not needful; power is not needful; liberty is not needful; even health is not the one thing needful; but character alone – a thoroughly cultivated will – is that which can truly save us’. Character is vital in all professions and walks of life, and in the legal profession particularly the maintenance of the honesty of the lawyer is a matter of the first importance.<sup>29</sup>

## Conclusion

Legal professionals have a vital role to play on social dimension. This profession is highly dynamic and competitive. In this 21<sup>st</sup> century and expanding globalization, the profession has ceased to be referred “a traditional profession”. With increasing globalization mobility of lawyers has become frequent, and with time and pace the legal practice has also become more complex. Events are moving fast and reform in legal education cannot wait any longer. If it is molded to sub serve the purpose of the society and to fulfill the current needs, our legal instructions will not only command respect but will also be able to play a vital role in the achievement of the common goal.

<sup>25</sup> Gupta, S.P., Professional Ethics, Accountancy for Lawyers & Bench Bar Relations, Central Law Agency, Allahabad, 2006, in the Preface.

<sup>26</sup> Justice Dr. B. Malik, “The Art of A Lawyer”, The University Book Agency, Allahabad, 9<sup>th</sup> Ed, 1999, at foreword

<sup>27</sup> *Supra* 16, p.70.

<sup>28</sup> *Supra* 6, p. 143.

<sup>29</sup> *Supra* 9, p. 11.

Society is undergoing rapid transformation and the pace of change is likely to gather speed. In the context of change ahead, it will be important to dedicate thought on how to adopt our legal education to modern conditions so that the coming generation may fit in the new society that is envisaged. Legal education is an investment, which if wisely made will produce most beneficial results for the society.

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