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## INDIAN LEGAL EDUCATION: GRASSROOTS LEVEL DRAWBACKS & CHALLENGES

Dahunmon Mary Hadem

Ph.D. Research Scholar

Department of Law

North-Eastern Hill University, Shillong, India

**Abstract :** The role of Indian legal education is to constantly develop itself and shape the legal profession in order to be at par with the ever changing needs and challenges of the society and the legal system as a whole. Legal education should focus on how to bring about the right aptitude, interest, commitment, skills and knowledge amongst the young law aspirants which are necessary to perform variety of roles in society. The rapidly growing Indian economy needs to update its legal education mechanism to suit to the requirements of the competitive world in the light of globalization and technology. Thus, in attempt to contribute towards the growth and development of legal education in India, the challenges and drawbacks which act as stumbling blocks in this regard should be addressed and removed starting with the ones which are at the grassroots level to the ones which are brought about by the rapid rise of technology and globalization.

**Keywords -** Legal education, grass-roots, drawbacks, stakeholders, centres of legal education (CLEs).

### Introduction

Education is evolving in response to the changes in the society—the changes that are in turn driven by the evolving education system. Changing social paradigms and environment have transformed students' motivation and career expectations, emphasizing the need for comprehensive education ecosystems. Today, there is a widespread need for improved skills and human capital, which form the backbone of effective education systems.<sup>1</sup>

Legal education like other higher education has a symbiotic relationship with the society at large. The society and economic considerations have been impacting the way the education system has evolved, while the education system itself provides knowledge and manpower to the society.<sup>2</sup>

This paper, as the title suggests, deals with the drawbacks and challenges of the Indian legal education. Legal education has come a long way since India became an independent nation. However, there are still some previously existing challenges as well as some new emerging ones that need to be looked into and addressed. In order to discuss these prevailing and rising trends and challenges, a short tour or

<sup>1</sup> FICCI (Foreword), "Leapfrogging to Education 4.0: Student at the core" 9, *FICCI-EY*, November, 2017, available at: [https://www.ey.com/Publication/vwLUAssets/ey-leap-forgging/\\$File/ey-leap-forgging.pdf](https://www.ey.com/Publication/vwLUAssets/ey-leap-forgging/$File/ey-leap-forgging.pdf) (last visited on August 16, 2019).

<sup>2</sup> *Id.* at 5.

recollection on the history of legal education in India is essential which will lead the study to its present scenario and status.

### **Brief History: Post-Independence**

After the Constitution of India came into force in 1950, many resolutions were undertaken and committees constituted relating to the need for an all-India bar, the desirability of having uniformly high standards for law examinations in different universities of the country in view of the fact that a Supreme Court of India had been established<sup>3</sup>, for amending the Indian Bar Councils Act, 1926, to bring it in conformity with the new Constitution, etc. These resolutions were later adopted and a comprehensive Bill to amend the Indian Bar Councils Act was introduced. The Government of India took the view that in the changed circumstances of independence, a comprehensive Bill sponsored by the Government was necessary. Following this, a Committee of Inquiry was set up to go into the matter in detail. The Committee was constituted and was asked to examine and report on a list<sup>4</sup> of connected matters.<sup>5</sup>

Thereafter, the All India Bar Committee submitted its detailed report in 1953. The report contained the proposals for constituting a Bar Council for each State and an All-India Bar Council at the national level as the apex body for regulating the legal profession as well as to supervise the standard of legal education in India. To implement the recommendations of the All-India Bar Committee and taking into account the recommendations of the Law Commission relating to the legal profession, a comprehensive Advocates Bill was introduced in the Parliament which resulted in the Advocates Act, 1961.<sup>6</sup>

A lot of changes took place after the enactment of the Advocates Act, 1961. The Act constituted the Bar Council of India (BCI) which was conferred the power to prescribe standards of legal education and to recognize law degrees for enrolment of persons as advocates. It also laid down certain uniform standards which govern the Indian Legal Profession across the country which included the standards for reformations in the legal education in consultation with universities that are teaching law.<sup>7</sup> Thus, the growth and progress of legal education can be traced during and after this period.

In pursuance of its statutory obligation to prescribe, maintain and improve standards of legal education, the BCI did attempt to bring about the desired changes in the curriculum, pedagogy and in the

<sup>3</sup>The Bar Council of India, *History*, available at: <http://www.barcouncilofindia.org/about/about-the-bar-council-of-india/history/#:~:text=At%20its%20meeting%20held%20on,of%20Madras%20adopted%20that%20resolution.&text=Shri%20Syed%20Mohammed%20Ahmad%20Kazmi,the%20India%20Bar%20Councils%20Act> (last visited on June 23, 2023).

<sup>4</sup> The list includes:

- 1) The desirability and feasibility of a completely unified Bar for the whole of India,
- 2) The continuance or abolition of the dual system of counsel and solicitor (or agent) which obtains in the Supreme court and in the Bombay and Calcutta High Courts,
- 3) The continuance or abolition of different classes of legal practitioners, such as advocates of the Supreme Court, advocates of the various High Courts, district court pleaders, mukhtars (entitled to practice in criminal courts only), revenue agents, and income-tax practitioners,
- 4) The desirability and feasibility of establishing a single Bar Council for (1) the whole of India and (2) for each State,
- 5) The establishment of a separate Bar Council for the Supreme Court,
- 6) The consolidation and revision of the various enactments (Central as well as State) relating to legal practitioners, and
- 7) All other connected matters.

<sup>5</sup> *Supra* note 3.

<sup>6</sup> *Ibid.*

<sup>7</sup> Aafreen Collaco, "Reformation in the Indian Legal Education: A Snapshot", *Career Launcher Blog* (2020), available at: <https://blog.careerlauncher.com/reformation-in-the-indian-legal-education-a-snapshot/> (last visited on June 20, 2023).

organization and functioning of law colleges. Consequently, some uniformity and structural changes were brought about throughout the country in the early 1960s.

BCI, later on, took control over legal education in India. The Ministry of Education, Government of India for the first time in 1980, constituted a working group to examine the status of legal education in the country and to suggest measures for improvement of the structure and quality of legal education.<sup>8</sup>

It was only in the late 1980s, taking into consideration the above initiatives, that the Bar Council of India developed a model to establish a law school with a University status. This gave birth to the first National Law School in Bangalore<sup>9</sup>. This law school was set up with a mission to pioneer legal education reforms, and to anchor the transformation of the Indian legal system through research and policy interventions. Later on, it became one of the first institutions in the country to introduce the five-year integrated law degree at the undergraduate level with the commencement of the first batch in 1988.<sup>10</sup> Consequently, the success of this National Law School gained momentum and this further led to the increase in number of National Law Schools/Universities in various states across India. However, the growth was not limited to public universities. With the advent of globalization and greater participation of private sector, there was also a rise in the number of private law schools in India. Over the past few decades, private universities have paved a new way for law schools in India.<sup>11</sup>

The Bar Council is since then committed to the successful implementation of this scheme and is mobilizing the co-operation of universities and state governments in this regard.<sup>12</sup>

Presently, Indian legal education has come a long way since India became an independent nation. A lot of initiatives have been taken by law schools with regard to bringing about desired changes and improvements in the field of legal education in India. The role of law schools/universities today has multiple facets which includes creating a more wholesome society and citizens who are able to appreciate their roles in the same. They perform duties of interlinking information and knowledge. Introduction of new programmes, courses, research, student-faculty exchange programmes, moot court programmes, interdisciplinary and multi-disciplinary curriculum and dialogues across universities, across countries, which are vital for knowledge generation, are given utmost importance.<sup>13</sup>

### Perceived Drawbacks & Challenges

Few decades ago, the general concept was that law schools are meant to produce graduates who would mostly come to the bar, while a few may go into law teaching. Legal education as a discipline was not a popular choice of the students in India. However, today the entire notion of legal education has revolutionized. Today's legal education must accomplish bar standards and new trade, commerce, industry

<sup>8</sup> "Chapter IV: Legal Education" 3 *Judicial System and Reforms in Asian Countries: The Case of India*, Indian Law Institute 81(2001), available at: <https://core.ac.uk/download/pdf/288451985.pdf> (last visited on June 23, 2023).

<sup>9</sup> The National Law School of India University (NLSIU) was the first National Law University established in India in 1986.

<sup>10</sup> National Law School of India University, Bengaluru, *About NLSIU*, available at: <https://www.nls.ac.in/about/about-nlsiu/> (last visited on June 23, 2023).

<sup>11</sup> *Supra* note 7.

<sup>12</sup> *Supra* note 8.

<sup>13</sup> NALSAR University of Law, *Partnering With Us*, available at: <https://www.nalsar.ac.in/partnering-us> (last visited on November 30, 2022).

requirements along with global standards. Presently, many new disciplines with a worldwide perspective have emerged including artificial intelligence, sports law, energy law, concern for climate change, crypto currency, cross-border trade and commerce which give rise to new sets of consumers, clients, international disputes and settlement resolutions, legal issues, trade agreements, etc. However, in order to get to these emerging trends and challenges which legal education is required to address in order to upgrade itself according to the changing needs of the hour, many grassroots level drawbacks and lacunas are to be addressed primarily.

In spite of many initiatives being taken by various institutions imparting legal education and regulatory bodies, some of such lacunas in the present legal education system which can impair the building of new generation of efficient legal professionals for India are as follows:

- ***Existing gap between theory and practice:*** This drawback is often experienced by those who intend to join the Bar and Bench. In spite of many attempts made in this direction such as conducting compulsory moot court programmes, court visits, internship programmes, and setting up of legal aid clinics in law schools, etc., bridging the gap still seems to be a great challenge to the system. Passed out law students are still left to feel alienated when they join court practice for the first few years as though no learning in this aspect has been imparted to them during the course of their study. Law schools certainly educate a person on the theory of law but where an actual case or matter is being brought up to him/her by a client, he/she is often left clueless. This is where the gap lies. What are the procedures to be followed practically, where should he/she go with the petition or how is the petition to be prepared relating to the matter in hand, etc. are still matters of great confusion and obscurity.

Another related issue in this direction is that, often, law students find themselves lost in the court premises during their court visits or internship programmes as they are not so welcomed by the practicing lawyers who are supposed to be the ones to extend their hands in guiding the young law aspirants or law graduates.

- ***Late introduction of Research Methodology Subject:*** “The pen and the written word hold a great deal of power” (Andy Biersack). If one word can make a big difference, one good article can bring about a revolution. Amongst the other aims of legal education is the aim to produce good and well equipped academicians and legal researchers who will contribute mainly through their findings and writings, through path-breaking and excellent research in the field of law.

One of the subjects essential for this objective is ‘Research Methodology’ which is usually introduced at the Masters Degree level and mainly applied on a serious note only at the Doctorate Degree level when the researcher is expected to make real contributions in the field of law and society. Unfortunately, the proper methods of research could not have been applied due to lack of clarity and understanding on the subject as a whole and the methodology in particular. Such late introduction, led to the late familiarity of the researcher/academician on the subject,

resulting in one of the reasons why there are too many poor quality research work at the higher education level and, particularly, in the field of law study.

- ***Imitative or Repetitive Writings:*** It may be quite disheartening to see that if a study on legal education is undertaken whether in India or abroad, undoubtedly, multiple doctrinal sources will be found and most of the doctrinal sources including articles, books, journals, etc. will solely be focusing on the shortcomings of the system rather than appreciating the commendable achievements and improvements that have been brought about through the tireless efforts of the concerned regulatory authorities in coordination with the respective universities and the central and state governments. While a truthful and genuine writing is highly acceptable and encouraged, the imitation or duplication of the same writings just for the sake of getting it published results in over-repetition of problems, repetition of research works which lead to unnecessary wastage of time and energy, setting the ball rolling just to dwell on the same stagnant pool of negativity and cynicism by drawing a bleak image of the Indian legal education system and the legal system as a whole and creating distrust in the systems. Such trend of writing is doing more harm than good to the system and to the young minds that such writings have the capacity to influence.
- ***Lack of implementation of self-assessment method / Poor implementation of 'check and balance' principle:*** The Bar Council of India encourages self-assessment methods of the academic performance and potential of the college/department/centers of legal education (CLEs) from each member of the teaching staffs and of the management in order to find out the strength and weaknesses of the institution/CLE.<sup>14</sup> However, such assessment method has rarely been taken up practically mainly due to less inspection by regulatory authorities, lack of participation and sense of responsibility by the concerned stakeholders which led to an imbalance in what is supposed to be a 'check and balance' principle.
- ***Lack of infrastructures for Persons with Disabilities (PWDs):*** Having good and sufficient infrastructures is one of the criteria for the establishment of a new CLE. Inadequacy in such criteria can deter the enrolment or recruitment of persons with brilliant minds as students or as legal professionals especially the ones with disabilities, who can be good assets to the institution and the system as a whole.
- ***Less importance given to teaching and learning of local laws:*** Every State has its own sets of local laws and being aware and well-versed with such laws is how the law student can contribute back to his/her society in the long run. However, emphasis on the local laws and customary laws

<sup>14</sup> Bar Council of India, *Part-IV Rules of Legal Education* 42, available at: <http://www.barcouncilofindia.org/wp-content/uploads/2010/05/BCIRulesPartIV.pdf> (last visited on April 23, 2017).



of a particular state or region is rare within the curriculum and syllabus of the Indian legal education. For the purpose of better participation, understanding and for developing interests such significant emphasis should be laid down in all law schools within India.

- ***Less emphasis on the effective functioning of the counseling centers:*** Although counseling centers, whether for career guidance or for ensuring good mental and emotional health of both teachers and students, do exist but their effective functioning is seldom ensured by the concerned authorities. Mental health is one of the prime and sensitive issues of the time worldwide. For the system of legal education to be able to stand strong, mentally and emotionally fit stakeholders are what the system needs as pillars of support and growth. Also, a good career counseling center will also be able to guide and to make the young law aspirant aware of the different career choices that are available after law schools. Therefore, the availability of such effective and fully functional counseling centers should be ensured and promoted along with the availability of professional counselors in their respective areas of expertise.
- ***Lack of good supportive non-teaching staffs:*** The other criteria for a law school or CLE to exist is having manpower or the staffs (teaching and non-teaching) required to carry out the different roles in administrative work, library or in cleanliness and infrastructure maintenance, etc. Unfortunately, most of the law schools are still short of such supportive staff members who will ungrudgingly provide their respective services tirelessly and dedicatedly. The absence of such supportive staffs can have both direct and indirect impact on the quality of legal education that the concerned institutions intend to provide.
- ***Unreasonable interference of Students' associations:*** One of the grassroots level difficulties of legal education, which often go unnoticed or unmentioned, is the unreasonable interference of students' associations especially in places where the local students have a lot of say in the time to time activities and programmes of the concerned institutions. Such interference, often by inducing threats or fear, can have both direct and indirect impact on the smooth functioning and fulfilling of duties and responsibilities by the concerned institutions and its faculties.

## Suggestions

Since the role of legal education should be to constantly developing itself and to shape the legal profession in order to be at par with the ever changing needs and challenges of the society and the legal system as a whole, it should focus on how to bring about the right aptitude, interest, commitment, skills and knowledge amongst the young law aspirants which are necessary to perform variety of roles in society. The rapidly growing Indian economy needs to update its legal education mechanism to suit to the requirements of the competitive world in the light of globalization and technology. Thus, in attempt to contribute towards the growth and development of legal education in India, the following suggestions have been provided:

- In bridging the gap between theory and practice, apart from the moot court programmes, court visits, internship programmes, clearing the All India Bar Examination (AIBE) etc., other steps should be taken. For instance, a prior set up or collaborative understanding between the concerned CLEs and the respective bar associations should be made so as to enable law students to approach the bar without fear of being rejected by the senior or other practicing lawyers; lawyers' academy in every State should be set up in order to mandate the training of lawyers for few months in court procedures and ethics. When it comes to judicial officers, a few years of practical experience as an advocate should be made mandatory.
- Subjects like Research Methodology should be considered to be taught at the primary level of legal education i.e. at the LL.B. degree course so as to familiarize the young law aspirants early on into the methods of research work and to promote good writings and quality research, which are the important aspects of a good legal system. It is only when the methods of research is thoroughly understood that it can be applied accurately.
- Self-assessment methods should be taken quite seriously and should be implemented practically by the respective authorities. In doing so, even the participation of law students should be encouraged and be taken into consideration. An unexpected or surprise visit by the regulatory authorities should be carried out every once in a while.
- Law schools and other work places for legal professionals should have infrastructures which are PWD-friendly so as to attract enrolment of persons with disabilities whose contributions to the field of law is as important as any others'.
- Special courses should be introduced for candidates aspiring to join the profession of law-teaching before they are inducted as law teachers/professors to improve and enhance their teaching skills.
- Indian legal education should prioritize teaching of local laws.
- Subscription to journals, study materials, articles and other write ups should be affordable and accessible.
- More projects and schemes should be offered and provided to law schools/CLEs by governmental bodies or ministries in order to evoke interest and quality research in an in depth manner in the field of law.
- More opportunities to do field visits should be provided such as for organizing legal awareness programs by students under teachers' supervision and by visiting places of importance such as the Parliament, the Supreme Court of India, other Indian courts and institutions imparting legal education in India.
- Options of student-faculty exchange programmes should also be made available widely in law schools as new methods of learning and teaching, among other things, can be adopted from new environment and different law schools.
- With the additional responsibilities and new sets of legal professionals coming into play that require specific knowledge and abilities not widely found in the existing legal professionals, the future

lawyer is expected to communicate on an equitable level with other professionals and acquire scientific and high-tech expertise. Therefore, the prospective law curriculum must include an integrated understanding of a wide range of physical and natural scientific disciplines on which legal regulations are now being created in addition to social science courses.

- With the rapid growth and rise of technology, the fear that Artificial Intelligence (AI) may replace the human lawyers someday should be replaced with encouragement and preparation in order to equip themselves to work side by side with AI and to improve themselves in areas where AI and machine learning can never replace human professionals.
- Apart from all of the above suggestions, it is immensely important to emphasize on the significance of adhering to professional code of ethics, organizing sensitization programmes for all the concerned stakeholders of legal education, etc.

## Conclusion

The journey of legal education in India has witnessed a remarkable transformation since its inception.<sup>15</sup> In the changed scenario, multiple and additional possibilities have opened up for legal professionals both nationally and internationally. Roles such as that of policy planner, business advisor, negotiator among interest groups, expert in articulation and communication of ideas, mediator, lobbyist, law reformer, and many more have become available more than ever. These roles demand specialized knowledge and skills not ordinarily available in the existing profession. The five-year integrated programme of legal education is a modest response to these challenges.<sup>16</sup> However, the need of the hour is too vast that the scope of law schools and legal education has to be enlarged drastically in order to envelope the emerging challenges and for this to happen, first and foremost, the above-mentioned shortcomings should be handled and dealt with successfully.

In the end, it is immensely important to note that no matter how many changes may come to pass or how much progress and development is brought about by legal education and the legal system, success can never come without unity and cooperative working of each of the stakeholders. Many a times, the feeling of oneness, or unity and integrity is what the legal profession lacks which is nothing but a reason for tearing the system and profession apart instead of building it up. Besides the other needs, team work and collaborative working amongst the stakeholders of legal education is the dire need of the hour and it is the responsibility of one and all. Only then will legal education be the liberating wings of its professionals in the legal field.

<sup>15</sup> *Supra* note 7.

<sup>16</sup> Sumit Kumar, "Impact of Globalization on Legal Education in India", *Law-Lawyers & Legal Profession* (2010), available at: <http://www.legalservicesindia.com/article/article/impact-of-globalization-on-legal-education-in-india-311-1.html> (last visited on June 10, 2017).



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