

Legal Education in India in 21st Century

Karan Singh Guleria

Research Scholar,

Department of laws, H.P. University, Shimla-05

Abstract: Regular conflict in different council is a symbol of distortion in law and order. For proper functioning, collaborative action of BCI, State Bar Councils, state governments, the UGC and universities are necessary. Their comprehensive work for providing resources to both human and all law schools for qualitative legal education can be proved beneficial for country. Bar council and other legal authorities should find out the ways to meet the new challenges and provide better tools of research and methodology of learning for the coming generations. But some reforms are necessary for legal education to encouragement of global philanthropic initiatives, improvement of infrastructure. So to fulfill the need of Indian education at global platform, our legal education system needs a lot of improvement and reformation. But in rapid globalization and development these reforms should be made without any delay. In this context, the mutual cooperation between the Bar Councils and the universities is quite essential.

Keywords: Legal education, reforms, bar council.

Introduction

The legal system of country is a part of its social system and reflects the social, political economic and cultural characteristics of that society. It is, therefore, difficult to understand the legal system outside the social- cultural milieu, in which it operates (Jena, 2002). Legal education in most countries and particularly in India has not received proper attention that natural sciences or other social sciences have been getting. As a result, that legal education has failed to develop the levels of sophistication compared to other disciplines (Jauhar, 1999).

The legal education in India has undergone a paradigm shift during last few decades quality, efficiency and effectiveness of legal education are tagged to the success of a legal professional. Today legal profession is encountering with complex socio-economical and political environment resulting from globalized market place. The legal profession demands highly informed professionals having 21st Century lawyering skills sets for ensuring fitting services to the clients.

The law schools are the incubation centers for the law professionals. The law school while carving out new generation legal professional are bound to understand the environment they operate and needs of the legal professionals. Though the Bar council of India, a regulatory body constituted under the Advocates Act, 1961, owed for the quality of legal education, but the impact on academic delivery of the most of the law schools is not that significant. Introduction of clinical legal education methodology is one of the efforts made to train the students in the practical way. The gap between the quality of demand and supply of legal professionals is trivial and needs attention. Networking of law schools and legal professionals is the extreme necessity of the day for interacting and understanding the rudiments to erase the gap between the theory and application of law and shaping the new generation legal professionals.

This paper unabashedly sets forth a rather simple approach to the current state of legal education in India such an approach is primarily concerned with understanding the extent to which present arrangements on legal education have been able to full fill the objectives with which legal education is concerned. It also sets forth though tentatively, a set of future priorities, in the context of imminent changes in the new millennium. Indeed the new millennium will be of a borderless map for ever increasing multinationals and corporate elites, past moving international capital, a world order study by professionalism and ready to kill approach in a fast moving capitalist global order.

Current State of Indian Legal Education

While a lot is currently being discussed about the state of legal education in India, with reports from National Knowledge Commission, Law Commission of India, Legal Education Committee of the Bar Council of India, University Grants Committee Special Committee on legal education, expert committee appointed by Supreme court and some state governments (Aiyar, 2003), coming out in quick succession and a conference and round tables on legal education is being hosted by different departments of the central government, It is necessary to draw a sketch of the existing legal education frame work in India.

In India, general regulation of legal education is coming under two in bodies- Bar council of India (BCI) and university Grants commission (UGC). After the enactment of Advocates Act, 1961, Bar Council of India became the apex body for the entire legal profession. Section 7(1) of BCI is to recognize universities whose degree in law shall be a qualification for enrollment as an advocate. The Advocates Act, 1961 has a further provision which permitted BCI to lay down standards of legal education. However, the legal education also remained within the purview of university grants commission, which was an expert body constituted by the government of India under university grants commission Act, 1956 with a view to coordinate and determine standards in institution for higher education to research and scientific and technical institutions. The 184th Report of the law commission of India had examined the provisions of Advocates Act, 1961 and UGC Act, 1956 regarding regulation of legal education and suggested the following harmonious interpretation of these apparently conflicting provisions.

“Legal education as law courses in university which of far certain law degree or diplomas (and where such students are notified that those degree or diplomas will not entitle them to practice are concerned) which do not enable a person to practice, the Bar Council of India cannot impose mandatory conditions. The UGC have prerogative in such cases. However, in the laying

down of standards by the universities even in regard to such courses, though the prerogative is with the UGC and the universities, they would benefit much by consulting the BCI. In other words, in regard to course in law which do not lead to profession carrier, the UGC and the universities could, at their option consult the Bar Council of India, though it is not mandatory (NKC, 2007).”

As a result of this dichotomy in regulation, there has been a serious gap in prescribing the standards of education as well as in understanding the proper direction of legal education. In fact the First National consultative conferences of heads of legal Institutions (2002) has observed that the regulatory structure of legal education is currently flawed and needs careful reconsideration (Babu, 1989). A typical law college has four masters minimum: the university to which it is affiliated, the state government, the university grants commission and the Bar Council of India. The conflict of interests between these masters often affects the standard of education imparted in these colleges. The different priorities of the regulators often make it difficult to specify a proper curriculum and management control suitable to being these colleges to any efficient academic or organizational level.

Indian Legal Education in the Global Perspective

About fifty years ago the concept was that the law schools are meant to produce graduates who would mostly come to the bar, with a few may go into law teaching. The Advocates Act, 1961 was enacted to achieve the said objective, namely to prescribe minimum standards for entry into professional practice” in the courts” as stated above. But during this period and more particularly after liberalization in the year 1991, the entire concept of legal education has changed (Gupta, 2006).

Today, legal education has to meet not only the requirements of the bar and the new needs of trade, commerce and industry but also the requirements of globalization. New subjects with international dimensions have come into legal education. There is a need for a new regulatory mechanism which will cater to the above mentioned present and future needs of the country. The BCI may of course still deal with the minimum standards of legal education for the purpose of entry in to bar (Menon, 2009).

Therefore, among the various type of legal education, we can identify the type which is necessary for those who practice law, the type which prepares them to become researchers and teachers, the type which deals exclusively with academic, subjects of substantive law, the type which deals with public legal education or Para legal education, the type which prepares law graduates to deal with legal, regulatory and ethical issues in active sectors of domestic and international business and industry, and finally the type which professionals in engineering, medicine, management and social work may require.

Can Bar Council of India be Dethroned

Bar council of India was only conferred with limited powers but apparently it has been exercising more powers under subordinate legislation. It appears that BCI can be dethroned. In the light of the concept behind the Advocates Act, 1961, as stated above very limited powers were conferred on the BCI (Verma, 1999). But during the last few decades, in as much as there was no other regulator to take care of emerging needs and trends, the BCI has been dealing with all aspects of legal education under Resolutions, Rules and Regulations instead of limiting itself to the maintenance of minimum standards of legal education for the purpose of entry into the Bar.

In the last three decades, the Bar council of India, by virtue of its Resolutions, Rules and Regulations has taken over the entire body of powers in relation to legal education which is not the intention of the Advocates Act, 1961. The BCI, in its power to grant recognition to the universities for that purpose of enrolment of law graduates has been also dealing with inspection, affiliation or disaffiliation of various law colleges, granting annual affiliation or permanent affiliation etc. These powers were extended by the BCI under Rules, Regulations and Resolutions, though such extensions is not permitted by the Advocates Act, 1961 (Anand, 1998).

Furthermore, while the statements of objects and reasons and the preamble of the university grants commission Act, 1956 and of the India Medical council Act, 1956 refer to the constitution of bodies for maintain “ Standards of education”, there are no such words in the statement of objects and reasons and the preamble of the Advocates Act, 1961. This act deals with the minimum standards of legal education only in the context of “practice in court (Narain, 2004)”.

To conclude, no general power to lay down standards, no legal education for all purpose has ever been conferred by the Advocates Act, 1961. Therefore the rules, resolutions, circulars of BCI made by way of delegated legislation, taking over maintenance of standards, curriculum qualifications for admission and for faculty and inspections for all purposes, is clearly outside the scope and jurisdiction of the Bar council of India.

The Role Ahead: Proposition and Possible Outcomes

Domestic needs and needs of globalization cry for a new “Regulator” with a global vision. There are revolutionary changes which have come into legal education by reason of developments in information, communication, transport technologies, intellectual property, corporate laws, cyber laws, human rights, ADR, international business, comparative taxation laws, space laws, environmental, laws etc. And that: the very nature of law, legal institutions and law practice are in the midst of a paradigm shift (Saxena, 1999).

The aim of transnational legal education is not to create individuals who can “practice” law in a number of jurisdictions. Although graduates of such a program may well wish to do so, such ability should not to be seen as an objective itself, but merely as an incidental result. Our legal education must help students specialize in international trade practices, comparative law, conflict of law, gender justice, space law, bio medical law, bio-ethics. Globalization does not merely mean addition or inclusion of new subjects in the curriculum as stated above. While that is, no doubt, an important matter, the broader issues to prepare the legal profession to handle the challenges of globalization (Kagzi, 1971). Apart from expanding the curriculum, the law school has to improve their libraries. Use of computers and internet must be made compulsory in all law schools. So far as faculty is concerned, experience in other countries show that video conferencing of lectures by foreign faculty can help in overcoming the shortage of

teacher having knowledge of new subjects. The next thing that is being done elsewhere is the exchange of faculty for short periods, where ever finance permits.

Legal education must be socially engaged. This means that legal education programs must compulsorily expose students to the problems of poverty, social exclusion, social change and environmental degradation through clinical legal education. Legal aid programs and through seminars and debates that sensitize and expose students to issue of social justice. Faculty must include individuals with interdisciplinary training and direct experience on social issues (Kumar, 2007).

Law schools should tie up or partner with foreign law schools. For this purpose an alliance of law school has to be brought into being so that the domestic as well as the foreign law schools may mutually benefit and, in such alliances, the cost is to be shared. The syllabi can be changed to have a common core of transnational curriculum collaboration with foreign universities results in an award of two degree simultaneously. While Indian industry and business have expanded beyond natural boundaries into other continents and while international business investments into India have come to stay, the bulk of our law schools operate in isolation and faces only on local needs and not even upon the needs of the nation, let alone regional or international needs. This situation that has been created can be broken only by establishing a regulatory mechanism with an international vision, which can see beyond the requirements of entry into the bar (Beiter, 2006).

In the light of the changed scenario in the last fifty years, the need of globalization after 1991 and the gap and deficiencies in the existing system, it is clear that BCI has neither the power under the Advocates Act, 1961 nor the expertise to meet the new challenges both domestically and internationally. It is therefore, necessary for Bar Council of India to gear up with vision both of social and international goals, to deal with all aspects of legal education (Katju, 2000).

Conclusion

The BCI, State Bar Councils, state governments, the UGC and universities have a greater role to play for improving the standard of legal education in the country. They should work in the comprehensive manner without any conflict. They should think seriously to provide the resources, both human and financial to all law schools for qualitative legal education. The legal education in 21st century should also consider the globalization and its implementation on legal field at national and international levels. They should find out the ways and means to meet the new challenges and provide better tools of research and methodology of learning for the coming generations.

Legal education reforms in India should go along with the encouragement of global philanthropic initiatives, improvement of infrastructure of infrastructure as well as revised course structure at the reciprocity of global competition, so that resources are available to maintain international standards to impart quality of education and conduct impact-oriented research. To sum up, our legal education system needs a lot of improvement and reformation over its traditional methods in order to meet the needs and demands of the present day society. In the period of globalization, law can't be seen in isolation. In the present day scenario of the world, events are moving fast and there should not be delay in reforms of legal education. Now the time has come to realize how to prepare our law students to cope with these rapid changes and also how to adapt our legal system to new vistas with a view to fulfilling the justice promised in the preamble to the constitution of India. In this context, the mutual cooperation between the Bar Councils and the universities is quite essential.

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