Legal Education in the Era of Information and Communication Technology: An Analysis

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1. Introduction

“Education is the most powerful weapon which you can use to change the world.”

Nelson Mandela

IN THE lap of globalization, with the blessings of information and communication technology, the term ‘Legal Education’ touches multi-dimensional streams of education all around the world. Legal education is not a subject that covers the scope of the law alone, however, it extends its arms to social, political, historical and economic arena. The term ‘legal education’ cannot be understood with a determinate set of definitions, as the law cannot be understood without imbibing the social segments in its ambit. Legal education is a human science which furnishes relationship of law with the society. Education in law equips the future lawyers, judges, administrators, counsellor and legal scientists to fashion and refashion ways of peace and ordered attainment of the ideals of human governance. The Law Commission of India has also identified legal education as a science which imparts to students, knowledge of certain principles and provisions of law with a view to enable them to enter into the legal profession.¹ Legal education is the concept of great importance and plays a vital and significant function in the implementation of the cherished ideals of Justice, liberty, equality and fraternity as laid down by the framers of the constitution.²

The encyclopaedia of education defines legal education as a skill for human knowledge which is universally relevant to the lawyer’s art and which deserves special attention in educational institutions. The first thing which the lawyer must always bear in mind is that he/she must spiritualize the practice of law for service of country. There are instances of eminent lawyers in all countries who led a life of self-sacrifice, who devoted their brilliant legal talents entirely to the service of their country.

The primary goal of legal education is to (i) provide a platform where legal scholars can contribute to enhance in-depth understanding of law, (ii) explore vacuum areas of law where law is needed, (iii) participate in growth, evolution and improvement of legal rules, (iv) inculcate law students with the knowledge of operative legal rules, both substantive and procedural, (v) equip the law students with sufficient knowledge of the historical and sociological background of the country’s legal system, and (vi) to provide students with knowledge of the other legal systems of the world so that the students do not find themselves at a complete loss when it comes to adopting a comparative approach.³ Thus, legal education is essentially a multi-disciplined, multi-purpose education which can develop the human resources and idealism needed to strengthen the legal system. A lawyer, a product of such education, is able to contribute to national development and social change in a much more constructive manner with their legal education.

2. Important Agencies Regulating the Legal Education in India

The Constitution of India originally laid down the duty of imparting education on the States by placing the matter pertaining to education in List II of the Seventh Schedule. But it now forms part of List III, giving concurrent legislative powers to the Union and the States. Legal profession along with the medical and other professions also falls under List III (Entry 26). However, the Union is empowered to coordinate and determine standards in institutions for higher education or research and scientific and technical institutions besides having exclusive power, inter alia, pertaining to educational institutions of national importance, professional, vocational or technical training and promotion of special studies or research.⁴

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⁴ Sushma Gupta, History of Legal Education in India, 20 (Deep and Deep Publications, New Delhi, 2006).
Empowered by the Constitution to legislate in respect of the legal profession, Parliament has enacted the Advocates Act, 1961, which has brought uniformity in the system of legal practitioners. It has also provided for setting up of the Bar Council of India and State Bar Councils in the States. Under clause (h) of sub-section (1) of Section 7 of the Advocates Act, 1961 the Bar Council of India has the power to fix a minimum academic standard as a pre-condition for commencement of studies in law. Under clause (i) of sub-section (1) of Section 7, the Bar Council of India is also empowered “to recognize Universities whose degree in law shall be taken as a qualification for enrolment as an advocate and for that purpose to visit and inspect Universities”. The Act, thus, empowers the Bar Council of India to prescribe standards of legal education and recognition of Law Degrees for enrolment of persons as advocates.

However, for promoting legal education and for laying down standards of Legal Education, the Universities and State Bar Councils must be effectively consulted. Hon’ble Justice A.M. Ahmadi in the Chief Justices’ Conference held in 1993 that, “there should be a proper evaluation of papers in the examination. The students should be trained to draft pleadings at the college level. The standard of English should be improved. Under Rule 9 (1) to (4) by Section – A, Part-IV of The Bar Council of India Rules (under The Advocates’ Act 1961) deals with the subjects to be covered to complete the respective courses.

3. Significance of the Legal Education in India

The effectiveness of the administration of justice can only be reaped if the legal education is governed not only for the person who wishes to take the law as a profession but for those who wish to be a responsible and enlightened citizen. In the developing society, the importance of legal education has assumed a great significance. The object of the legal education is not restricted only with producing legal practitioners who are experts in litigation-oriented skills, but also to play a vital role in which the lawyers are equipped with divergent skills, prospective and tools with a view to making them policy-makers, administrators and social engineers.5

“Law without education is a dead letter. With education the needed law follows without effort and, of course, with power to execute it; indeed, it seems to execute itself.”

Rutherford B. Hayes

The aim of legal education is much higher than merely securing technical proficiency and material progress. The legal profession and judiciary have, therefore, an important role to play in facilitating the management of change. The law makes us “citizens”, legal education makes us “ideal citizen”. If legal education is aimed at grooming, social engineers, it would have been easier to achieve peace in society.6

Legal education is a vital link in the creation of knowledge, concepts as well as in the application of such concepts in society. The object of legal education is primarily to create professional lawyers. With the passage of time the spectrum of this term has widened. It has absorbed within its scope all these employments which are mainly dependent on their degree in law. When the seminars are conducted on the topic like, “Legal Education: Challenges Ahead”, it is observed that the whole focus is on those who impart education in law in universities, law schools and law colleges. The object of paper is to highlight the need of imparting knowledge to coming generations. In order to provide legal education as the yardstick of social empowerment, it is necessary that teachers/ lecturers in law should lay special emphasis on three points which are as follows: (i) To reveal the process through which law can introduce significant changes in the social and economic organization of society leading to improved standard of living. (ii) To emphasize the study of principles, institutions and proceedings that are fundamental in safeguarding the promotions of the rights of individuals and groups and (iii) To imbue students with rule of law and to develop the personal qualities required to uphold the noble ideas of the profession and secure the effective enforcement of the law in the community.

Legal education cannot exist in a vacuum, therefore, developments within higher education is necessitated. Necessary changes can be explained by many reasons, but prominent reasons that have acted as a catalyst for changes are the: (a) Emerging new social-economic challenges, (b) the focus is not merely to maintain standards of legal education but to improve standards. It is arguable that there is a conflict between legal education and

general educational policy maker. The conflict revolves around the manner in which both groups perceive how the challenges of the 20th century should be met. The main thrust of legal education policy is that legal education needs to prepare students not just for a career in law, but should equip students to extend the range of carriers leading from legal education beyond the narrow choice of becoming a barrister or solicitor. Therefore, legal education should be an “all round preparation for a wide range of occupational destinations”.  

4. Challenges to the Legal Education in the era of Information and Communication Technology

Globalization is the consequence of the interdependence amongst nations in the context of economic dependence. Economic interdependence among nations can be traced back to ancient history, even to the beginning of mankind. Yet the degree of interdependence and the sphere thereof is very much different in 21st century. Globalization means strategically developed world where boundaries of countries do not matter for the movement of commodities, services, capital, finances, technology and information. This strategy has converted the entire world into a global village. The backbone is the ever evolving Information and Communication Technology. This growth in globalization and free economy has given rise to basket of problems before legal luminaries i.e. lawyers, judges, magistrates, law professors and administrators.

The sphinx to legal education is reflected where a galaxy of legal luminaries are not able to bring the cyberspace or the world of electronic-magnetic into the clutches of the law and within the ambit of legal education. The new millennium has dawned an environment of computerization in which- www., electronic media, internet, foreign investment, mergers, acquisitions, e-commerce, e-banking, M-commerce, Blue-Commerce has become part and parcel of our lives. New methods of committing frauds, cheating, cyber defamation, pornography, computer crimes, cyber crimes, cyber terrorism, transnational organized crimes, white-collar crimes, frauds relating to intellectual property like copyright, patents, domain names, copy theft etc., have come into existence. Let us visualize the situation of a novice lawyer in the galaxy of this newly – born e-crimes were even laws are at a nascent stage and implementation of law is merely a formality.

The need of the hour is adequate and skilful law in the area of information technology. There are some prominent questions before legal education providers: (1) Can we say no to the benefits of Information and Communication Technology? (2) Can we deny our entrance into the cyberspace or e-world? (3) Is the education of law adequate to keep cyberspace in the protected palm of the law? The obvious answer is that we cannot say no to the achievements and the fruits of the cyber space. The answer to the third question is the greatest challenge before the whole world. The nature of cyberspace and the internet is an open system of communication and interaction. Since the computerized environment is more process based than personalization, it thus becomes, necessary to have an environment of integration, confidentiality and authentication of communication.

Cyber law is the domain at the intersection of technology, networking and law for checking risks. Cyber law is the area of law dealing with the use of computers and the internet. To check the cyber offenses, India has only one enactment namely the Information Technology Act, 2000 as amended in 2008. In order to pave the way for the development of e-commerce and internationally acceptable level of legal uniformity and compatibility of rules and practices, the United Nations Commission on International Trade Law (UNCITRAL) established by the United Nations General Assembly in 1996, adopted the Model Law of Electronic Commerce in 1966. It intended to facilitate the use of EDI, e-mail, telegram, telex or telegraphy, etc., by providing standards by which their legal value can be assessed. The UNCITRAL Model Law, 1996 has seventeen Articles that cover different functions performed by the parties for transacting trade and commerce in the paper based business. The Model Law, 1996 as adopted by U.N. General Assembly on January 1997 provides the broad framework on the basis of which the member nations are expected to formulate their cyber laws and regulations for a synchronized approach towards the legal framework of electronic commerce. In order to protect interests of the consumers, it has been provided that this law does not override any rule of law intended for the protection of consumers. A legal instrument that is particularly geared toward the ‘harmonization’ of democratic trade law is an UNCITRAL’s Model Law concept. The Model Law creates a legal framework for the individual states to follow when adopting new trade laws or modifying the existing laws.

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7 Kas Wachala, ‘Changing Perspirations and Need of legal Education and the Usefulness of Iolis in these changing Times’, 16 BILTA 1-12 (2001).
5. Suggestions to Conquer the Challenges Ahead

Legal education is required to cater the needs of variety of unanswered questions. It is a high time to take a fresh look on the quality of legal education in the country in general and in the academics (Universities) in particular. Legal education needs to be modified by increasing global exposure, achieved by adding courses, hiring more qualified faculty, sponsoring more international academic programs, opening research centers with global connections, and augmenting the number of formal international linkages. Due to privatization and globalization, there is an immediate need to conduct in-depth research into the subjects like Intellectual Property Rights, Cyber Law, Transnational Crimes, International Human Rights, Alternative Dispute Resolution, and International Business Transactions.

i. The classic ingredients of legal training consist qualified faculty, dedicated students, research centers, sound infrastructure and update legal literature; that is demanded by the new world paradigm.

ii. The law imparting institutions or law schools must connect themselves with the outside world and reconstruct their academic agendas to work with actors in the international community, such as NGOs, multinational corporations, governments and legal systems of other countries.

iii. Clinical programs, moot court competitions, study-abroad courses, debate clubs, and an increased reliance on non-legal disciplines such as economics, psychology, political science, anthropology, and sociology have made the study of law very wide. Teaching must focus on building up the skills of analysis, language, drafting and argument in law students.

iv. Accreditation and quality assessment of law schools must be done by the UGC & BCI quickly to build up a sense of competition between the different law schools.

v. The law profession is a highly competitive sector and, therefore, the highest qualifications and abilities demand from aspirant students. There are two distinct branches of the legal system that of solicitor and barristers. There is, therefore, need to articulate a clear long term vision on legal education in India, where such a vision will be guided by a focusing commitment to excellence.

vi. In Private Law Colleges and Universities, the well qualified and young aspirants must not feel that the teaching profession is lesser than litigation in any respects. It is the need of time to give better pay scale and handsome increments even to teachers in private institutions.

Law and Legal education are facing fundamental changes. Many assume that these changes will force law schools to give upon theory and focus on more on training students about the practice of law. The legal academics must review their performances for the achievement of excellence in the journey of education. The legal, educational journey can be best reached at the destination with a strategic step towards this journey. Perhaps, a more direct route is: D7. It means (1) Dedication; (2) Determination; (3) Destination clarity; (4) Decision Making; (5) Determined and efficient law faculty; (6) Disciplined and regulated life and (7) Dependence on willpower.

India’s legal education system needs “Dramatic Reform” to improve the economic environment and ensure citizens get speedy and affordable access to justice.

6. Conclusion

Legal education is a hidden wealth. Law is the cement of the society which fertilizes a barren land and makes the lives of people worth living in society. A sacred intergovernmental obligation of the present generation is

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11 Solicitors tend to work together with others in private practice and are generally the first part of the call for those seeking legal advice. Solicitors are also employed in government departments and commercial businesses. The law society is the professional body representing solicitors. Barristers on the other hand, do not generally deal with the public directly, but take their instructions from a solicitor representing the client. Barristers then represent the client at court and present their case. The Bar Council is the professional body representing Barristers.
required to transmit this wealth of knowledge to the next generation, so that it is preserved for the benefit of
the prosperity. Professional competence is required to transmit such knowledge. Indian Parliament has enacted
a number of laws for social reforms and social changes as required by the need of the hour. The fact is that the
mere enactment of laws will not be sufficient in delivery of effective social justice. The roots of imparting good
education lie in experts in law.

The scheme of legal education should be such as would make the students socially conscious lawyers when
they go out of the portals of the law universities. Law Colleges should not prepare them to sit in air conditioned
offices, but to serve as a social asset. The teaching of law should not be restricted only to the production of the
professionals either in the form of lawyers or judges, but the teaching of law should have a much wider role
to serve the society in disseminating knowledge for making people aware of their rights, duties and privileges.
Legal education has to cover a long distance to reach its destination and the destination is peace, justice, equality,
integrity and confidence in the virtual or e-world by educating young lawyers in various fields of law. To achieve
this destination, it is important that competent legal education must be imparted to young law students, which
are at their novice’s stage in various law institutes. Legal education must be competent enough to tackle all the
upcoming challenges before the law.