

its general sense is a form of learning in which the knowledge, skills, and habits of a group of people. Primary Education is a goal stated in many national development plans and pursued with vigour by most of most developing countries. It is hoped that the present edition of this book will be beneficial to all of the society, in general and students, lawyers, advocates, academicians, human rights institutions, and NGOs working in education field, in particular.

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AVON PUBLICATIONS

101/9938, West Gorakh Park, Street No. 3A,
Connaught Place, New Delhi - 110032

showroom:

₹ 1295.00

ISBN : 978-93-6183-984-3



Development of Education in India

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Development of Education in India



- Individual growth plans, developed jointly by the student, parents and teacher can encourage the development of intrapersonal intelligence. Technology supports such plans with electronic records, videotaped interviews, and multimedia portfolios of student work.

Limitations

- Primary Education is not a mandatory subject.
- Traditional conservative syllabus.
- Continuous mushrooming growth of various institutes running without basic infrastructure.

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14 Problems and Prospects of Legal Education in India

Puneet Pathak

"To educate a man in mind and not in morals is to educate a menace to society."
— Theodore Roosevelt

Introduction

Unlike other forms of professional education, legal education is both professional as well value-oriented educations. As there is a famous maxim that ignorance of law is no excuse. The knowledge in the field of law is useful in every walk of life. There is a big gap between the content and standard of academic programmes in legal education and the demand of changing society. With the advancement of technology, there are new and emerging legal fields which pose numerous challenges to law professionals. But at the same time, owing to this rapid development there are multiple opportunities for law aspirants and to make it a hot career option for its aspirants. The paper intends to discuss various challenges in the field of legal education in India and also suggest measures based on the reports of various committee and commissions for reform of legal education in order to meet global challenges.

With the technological progression, the world is changing rapidly. Global financial services market, e-commerce, manufacturing, telecommunications and investments are all areas where globalization has entrenched and continues to grow at a rapid proportion. Globalization has resulted into migration of people for construction and manufacturing jobs, positions of software development and other employment opportunities all over the world. Major Banks, insurers operate on a global basis and national boundaries have become meaningless. Such displacement or migration leads to the problem of diaspora. The emergence of global governance under United Nations and the rise of cooperation at regional level i.e. emergence of European Union which radically expand the structure of global economy by introduction of common currency and common standard in area of economic, social and political sphere. The rise of new emerging powers of the world such as China, India, Brazil, and South Africa projected as major players is coming future.

Generally legal education is considered as the education gained by individuals to become legal professionals or practitioners.¹ Legal education and its importance to establish a rule of law has been recognised since the time of Indian freedom struggle. Numerous law universities and departments under various traditional universities and law colleges were successful in producing many of the brightest lawyers and some of the best academics in the country. Various law schools and universities in India offer several academic programs in the field of law at post graduate and graduate level.² Traditional law departments have little scope for innovation in the design of courses, development of appropriate teaching modules, quality research projects in the field of law and promotion of advocacy in lawyering. The existence of this world-wide market and globalization cannot be overlooked by legal institutions in India. Legal academicians and legal practitioners will have to work in the context of this rapidly changing environment of political economy, trade, and investment. These are critical challenges for the future of the legal profession as a global strength for providing structure and process for the complex future world.³

Legal Profession in India

Law was developed as a matter of religious prescriptions and philosophical discourse emanating from the Vedas, the Upanishads and other religious texts in India. India has a documented legal history starting from the Vedic ages and some sort of civil law system since Indus Valley civilization. It was nurtured by different Hindu philosophical schools and further enriched by Jain and Buddhist philosophy. Secular law in India varied widely from region to region and from ruler to ruler. Court systems for civil and criminal matters were indispensable features of many ruling dynasties of early India. Secular court systems existed under the Mauryas (321-185 BCE) and the Mughals (16th – 19th centuries) was well-established which latter given way to the current legal system.⁴

India's legal system has developed from religious prescription to the existing constitutional and legal system pass through secular legal systems and the common law. Common law in India was implanted during British period. The common law system founded on documented judicial precedents came to India with the British East India Company. "Mayor's Courts" in Madras, Bombay and Calcutta were established by the charter granted by King George I in 1726. The judicial functions of the East India Company expanded substantially after Battle of Plassey and since 1772 company's courts expanded out from the three major cities which were intended to replace the existing Mughal legal system in those parts.

The control of company territories in India passed to the British Crown just after the first War of Independence in 1857 resulting a big shift in the Indian legal system. Mayoral courts were replaced by the establishment of Supreme Courts which were converted to the first High Courts through letters of patents authorized by the Indian High Courts Act, 1862. Superintendence of lower courts and enrolment of law practitioners were deputed to the respective high courts.⁵

During the British regime, the Privy Council acted as the highest court of appeal. These cases were adjudicated by law lords of the House of Lords in England. During the shift from Mughal legal system, the advocates known as *avakils*, continued their

earlier role as client representatives. During the British regime, newly created Supreme Courts were barred to Indian practitioners as right of audience was limited to members of English, Irish and Scottish professional bodies.⁶ Further, succeeding statutes resulting in the Legal Practitioners Act of 1846 which opened up the profession irrespective of nationality or religion. Codification of law also initiated with the formation of the first Law Commission. Under the stewardship of its chairman, Thomas Babington Macaulay, various statutes including the Indian Penal Code, 1860 was drafted in India. The Commission prepared the Code of Criminal Procedure and other codes like Evidence Act (1872) and Contracts Act (1872).⁷

In pre-Independence period, attorneys began to seek legal training in England; it meant that the legal profession became dominated by those with English law degrees. This affinity for lawyers trained overseas had a detrimental effect on the quality of legal education in India, as rich families sent their children off to England to become barristers or attorneys, who, on their return home, were regarded as superior to those who earned their law degree in India.⁸ At the beginning of independence, most of political leaders and freedom fighter were having the legal background which helped in formulation of the fundamental law of nation. The Indian Bar had a great role in the Independence movement.

The first prime minister of India Jawaharlal Nehru and a paternal figure Mohandas Karamchand Gandhi, both are exemplary lawyers. Perhaps it is the consequent understanding of law and its relation to society that prompted the founding fathers to devote the energy required to form a Constitution of unprecedented magnitude in both scope and length.

The Constitution of India, fundamental law of the land is the guiding light in all matters executive, legislative and judicial. The Constitution of India was the result of the aspirations of the people of India. It aims to provide economic, social and political justice, freedom of speech and expression, belief and religion. It is intended to establish an egalitarian society where all can enjoy their basic or fundamental rights equally. The Constitution explicitly and through judicial interpretation seeks to empower the weakest sections of the society. The constitution also guarantees the right to profess any profession under article 19 which is the part of fundamental rights chapter.

Problems with Legal Education

All India Bar Exam is conducted by Bar Council of India twice in a year. This examination of 3 hours & 30 minutes, decides whether the law graduate shall be eligible for the certificate of practice in court of law. This All India Bar Exam reflects the distrust BCI has on the law colleges and universities recognised by BCI. This particular fact itself shows that there is something wrong in legal education in India.⁹

Though the Bar Council of India itself ensures the standard of legal education in universities and colleges by way of recognition and supervision, than what is the need of such examination which entitled them only to register them as a lawyer. The law graduate which has completed three or five year law graduate courses after undergo all examinations during the course than making Bar Council of India examinations as precondition for registering as lawyers itself make the law graduate degree as questionable. To be eligible to apply for bar examination, enrolment to state bar council

is a pre requisite for the candidates. The fee for registration to the state bar councils at the time of enrolment is also very high. Total fee to be paid for registration vary from state to state bar councils ranging from Rs. 8950 to Rs. 17665.¹⁰

From this it is clear that even before entering into the profession, the students are facing exploitation from these institutions which are supposed to support and facilitate them in their early stage of career. There is an urgent need to support the new entrants to the profession with assured stipend in the early days of their career. The state bar councils and bar council of India has to frame strategies to uniform registration fee and some stipends for the initial two or three years of practice of every new lawyer.

There are two distinct bodies which regulate the legal education in India one is BCI in the field of graduate degree and other is UGC in master courses and research in the field of law. The quality of master courses and research in the field of law is inseparable to ensure the quality of graduate law degree because the law faculty is required to be doctorate or NET after master in law. Regulation of legal education by two different bodies somehow compromises the quality. BCI rules on standards of legal education fail to effectively provide for the qualifications, conditions of service, selection, pay scale and promotion of law faculty and principles of law colleges in India.

According to BCI rules judges and advocates without LL.M. are permitted to be the part time faculty members and the full time faculty members are governed by UGC norms and guidelines because BCI rules are silent about it. NET/SET is an essential qualification for the appointment as faculty as per UGC Regulation, 2009. Unfortunately such national and state level examination is not able to guarantee communication skills and a passion for academics. Sometime good scholars cannot be appointed because they have not cleared NET/SET examination. Most of law colleges do not have enough number of full time faculty members.¹¹

In regard to the workload of assistant professor, it requires 16 hours per week. With such huge workload they have little time to devote for research and other academic activities to complete his/her API score for next promotion. Sometime faculty members are not able to concentrate on their teaching and adversely affect the interest of the students. The issue has been raised recently by HRD minister. The process of changing the present criteria of Academic Performance Indicators (API) scores, which relied heavily on co-curricular activities and research in the evaluation of teachers, has been initiated.

In 1999, The All India Teachers Congress was held at the Faculty of Law, University of Delhi, which was attended by law teachers representing over 460 law colleges in the country. The Congress passed various resolutions. It referred to the 'Revised Curriculum' prepared by the Bar Council of India (for 3 year and 5 year law courses). The main grievance of the entire Faculty drawn from all over the country was that the Bar Council of India was not complying with the requirement of 'consultation' with the Universities under sec. 7(1) (h) of the Advocates Act, 1961.

Further, it was pointed out that under sec. 7(1) (h), one of the functions of the Bar Council was to promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the State Bar Councils. The view was unanimously expressed that the Bar Council of India could not have revised and fixed the "curriculum" for law students without consulting the

Universities. It was even observed that the action of the Bar Council of India was ultra-vires of the provisions of the Act.¹²

There is less involvement of academicians in policy making relating to legal education in India. Academicians should get involve in the inspection team visited for the recognition of law colleges/law universities with the members of BCI. Renowned law professors should get significant roles in judiciary and law related statutory bodies. Since the constitution of India came into force in 1950, the provision regarding the appointment of a distinguished jurist as judge of Supreme Court of India was never exercised. This provision is applicable for the appointment of a distinguished jurist as Supreme Court judge and not high court judge. This shows a gap between the legal academia and the judiciary. Faculty members, students and research scholars of law departments under central and state universities and law universities should consider active participation in policy making by organising discussion on bills and amendments and forwarding their recommendation to concerned government or department.

Lack of senior faculty members in the university level is a common problem in the country. Such problem is being faced by most of the central and state universities as well as the law universities as there is only one or two professor are running the universities having masters and Ph. D. Courses. It adversely affects the quality of research in the field of legal education. Due to more workload there is less time for research and other activities on the part of faculty members. Scoring the API (Academic Performance Indicator) results in compromising the teaching efficiency as the faculty members are engaged in collecting API Score rather than focusing on teaching. Taking care of teacher by ensuring appropriate working environment and service conditions is inevitable in the path of improving legal education in India.¹³

In regard to curriculum of law graduate course, BCI listed 30 compulsory papers with 85 optional subjects for law graduate course. It is left to the universities to decide the syllabus. It accounts in various different syllabuses for the same course throughout India. In regard to master course in law there are two type of LL.M. degree: one year LL.M. course and two years LL.M. course. Both having different core papers and optional papers are somehow similar. The criteria in regard to LL.M. one year course are the strength of faculty members. Most of law universities and private universities are running both courses without meeting the required standard. No other degree in India having different duration. There is no academic audit regarding curriculum, co-curriculum and practical training in the field of legal education.

Language is another critical issue in legal education. English is necessary for practicing in Supreme Court and different high court. In some states vernacular language is being practiced at the level of lower courts. Bar Council of India is silent about the use of vernacular language in legal education. Many universities accept vernacular language as a medium of examination. Even National Knowledge Commission which made various recommendations to reform legal education in India did not express anything in this regard. Difficulties in providing lectures in vernacular language, framing of moot court problems, assessment of students are issues which need serious consideration. The real problem lies in the fact that references and authorities are not available in vernacular language.¹⁴

Legal Education in Era of Globalization

According to Michael S. Greco, the study in law does not end with graduation from law school, but continues throughout the lawyer's career. In India, generally it is perceived that there is a critical gap between what is being taught in law schools and the skills they required at the workplace. In order to ensure an advanced justice system, it is essential that a programme of continuing legal education is in place which is a recognized need worldwide. Due to the deep impact of globalisation on our lives and the legal profession, there is a greater necessity for continuing legal education for active practitioners, legal professionals and jurists. While the idea of continuing legal education and training programs shall address the basic issues of improved lawyer proficiency, it will, update professionals with the developments in the national as well as international legal field. The professionals from legal field shall get an advance understanding of the global challenges taking place in contemporary society.¹⁵

The school of thought that contends that the transformations at global, regional and national level that have been taking place are of minimal concern because lawyers are primarily concerned with domestic issues limited within the nation is clearly unsustainable. The rapid increase in the volume and diversification of international commercial transactions and international trade, technology transfer, international development of investment funds, online transactions and rapidly expansion of Multinational Corporation worldwide make it imperative that law students acquire an international outlook and understanding of law in a global context.

The practice to focus on domestic legal experts is not sustainable and may be irrelevant in coming future because of the emergence of new problems at global, regional and domestic level such as human rights, environmental degradation, environmental crime, illegal human trafficking beyond the border, terrorism, cybercrime international adoptions and war crimes etc. Such new and emerging problem does not respect the domestic boundaries and need global response. Legal areas with a strong domestic attention such as family law, estate planning and criminal law are gradually the subject of international issues and complications. With new scientific development, activities like child pornography on the internet or the regulation of biotechnology developments including human cloning call for a collaborative response transcending anyone legal system in order to achieve an effective outcome.¹⁶

As the society is becoming more and more complex and technological advancement has posed massive challenges to the earlier system of law and justice. Trade and commerce has become vast and technology oriented. A lawyer has to understand the new social and economic changes in the world.¹⁷ The age old practices and tactics prevailing currently in the Indian legal system are no more relevant now. The role of legal profession in the society is different now because it has a wider set of economic, political and social roles. Society has changed significantly, and changes in the legal profession reflect those changes.¹⁸

The role of lawyers, judges and faculty will become critical for addressing future challenges of governance. Achieving the next level of paradigm for legal education shall not be possible without the presence of excellent faculty which is updated and sensitive to the changing times. Hiring of good faculty has been a challenge in universities and law schools in India. Generally, the financial incentives offered by the

private sector both in India and abroad are far more attractive than those available in the public sector, including law schools, for good lawyers to make a commitment to academia.¹⁹

In order to improve the legal education there is a lot of scope to attract good lawyers to academia by indorsing a range of educational reforms and institutional initiatives, including better financial incentives to the faculty members. Globalisation has indeed provided new opportunities to address some of the challenges in this regard including cybercrime, business and investment by MNC, human rights, environmental issues etc. Issues relating to the Indian legal system are not only taught and researched in India but also in many other parts of the world which need to share and exchange.²⁰

There is an undeniable need to provide the right kind of intellectual environment and infrastructure to update standards of legal education. The law schools ought to offer academic space for engaging in teaching and cutting edge research on various issues of global significance. The institutions involve in imparting legal education ought to constantly reinvent themselves for facing the challenges of globalisation through exchange and collaboration programmes in collaboration with foreign universities.

It is worthwhile to learn from the experiences in foreign countries where the shortage of faculty has been addressed by video-conferencing of lectures by foreign faculty and ready-made course modules. Growing numbers of techno savvy Indian lawyers and scholars are involved in this effort. This has diverse implications for faculty, students, and for the development of teaching and research programmes in the area of legal education and legal profession in India.

With the background of global development and the rise of India as an important partner in the global economic field, it has to take up a greater responsibility as a key player by introducing a regime of progressive higher education particularly in legal field. Keeping this model in mind, there is a growing need to review legal education so that it meets the needs of the society. Future lawyers will have to be acquainted with new tools and skills of legal education. A well administered and timely relevant legal education can, therefore, be said to be the only choice for the future. According to well-known legal scholar, Nani A. Palkivala, the two marks of a truly educated man are the capacity to think clearly and intellectual curiosity which enables him to continue and intensify the process of learning even after he has finished the law course.²¹

Global curriculum, global degrees, global faculty and global interaction are some of the important aspects of legal education which deserve attention of academicians and policy makers in the field of legal education in India. Law students should acquire international understanding, experience and knowledge of foreign laws and legal systems. Advanced degree programs, exchange and summer abroad programs, moot court competitions and participation on international and comparative law reviews all provide valuable insights and experience.

Conclusion

The legal education system should be updated and become an instrument for solving contemporary legal problems because the future shall witness a radical change

has posed multiple challenges to the future of legal education in India but at the same time it also opens the door of new opportunities.²² In this regard the training that is imparted to future lawyers and judges in our law schools need to be through re-examined to suit the social and economic transformation that is underway in India. Following are some of the suggestions helpful for Indian legal education system to meet new challenges:

- **Implement the recommendation of National Knowledge Commission:** NKC has recommended the establishment of a new regulatory body comprising eminent lawyers, BCI members, judges, academicians, representatives from trade, commerce and industry, economists, social workers, students and others; for the purpose of revamping legal education to meet the needs and challenges of all sections of society. NKC has envisaged that this new regulatory mechanism would function under the auspices of the Independent Regulatory Authority for Higher Education (IRAHE), and would be vested with powers to deal with all aspects of legal education.²³
- **Constitution of National Legal Knowledge Council:** For the purpose of formulating the policy vis-à-vis legal education in India at a national level, a National Legal Knowledge Council be established comprising legal luminaries as well as experts from various socially relevant fields. The functions of the National Legal Knowledge Council would include continuing reform of legal education in the country, including of matters pertaining to inspection and recognition of law colleges as well as appointment of suitable faculty to various institutions imparting legal education across the country.²⁴
- **Establishment of Legal Aid Clinics/Centres:** In reference to the principle enshrined under Article 39-A of the Constitution of India, the Bar Council of India, vide Resolution dated 24 October 2009, resolved that all law schools/colleges should establish a legal aid clinic/centre for the purpose of providing inexpensive and efficient justice to the needy sections of our society. It was also resolved that a lecturer shall be the faculty in charge of a legal aid clinic/centre, and that final year students would be trained at such legal aid clinics/centres in imparting professional legal advice and client interaction. This Committee unreservedly endorses the resolution passed by the Bar Council of India and recommends that establishment of such legal aid clinics/centres be made a precondition to the recognition of law colleges by the Bar Council.²⁵
- Orientation programme should be organised for first year law students to sensitize them about the future need of legal profession.
- Law Schools could make some international and comparative law courses compulsory. Law schools could ensure that law courses primarily focused on national law should also include international component.

Despite the several challenges posed by globalization in the field of legal education, some of the suggested reformative measures can be taken to bring uniformity in the legal education in India. The Bar Council of India should conduct national level test in order to avoid state level discrepancies. It should further ensure standard and quality education in the field of law regarding faculty, infrastructure, IT and library facilities in all the law colleges and universities including private institutions. At the same time

UGC which regulates the master and research courses also ensure strict compliance of its rules and regulation to maintain the standard of higher education in the field of legal education in India.

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Status of the Muslim in Higher Education in Tripura: A Case Study under Durgapur Village

Mijanur Rahaman

"The philosophy of the school room in one generation will be the philosophy of government in the next."

- Abraham Lincoln

Introduction

A country cannot be developed without the proper participation of all the section of the society. All the people including the smallest group has equal share in the development of the nation. Muslims are the largest minority of India as well as in Tripura. They constitute 8.96% of the total population of Tripura. They are backward in all aspects of the society. These are evident in the report of Sachar Committee, Ranganath Misra Committee and Gopal Singh Committee. It is also true in case of the Muslim of Tripura.

Although they are the largest minority of this state, they do not get equal share in educational, social, economic and political fields. As education plays a vital role in the development of an individual, society and a state, it is very much essential for the development of the Muslim society of Tripura. Education has always played a very important role in every society. It makes an individual to internalize the value and norm of the society and simultaneously offers the specific skilled persons to serve different functions in society.

It is said that education polishes the human capabilities so that it could be utilized for human uplift. Owing to lack of education, the Indian Muslims lagged far behind in every walk of life. Education plays a vital role in the development of individual and state. The Muslims of Tripura are found educationally backward. Due to the lack of high qualifications, Muslims do not get jobs in many fields in comparisons with others. Muslims are found little in the professional, vocational and scientific courses.

Aims and objectives of this study: (a) To know the educational status of Muslim of Tripura at higher level; (b) To find out the causes for their educational backwardness;