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LEGAL EDUCATION IN INDIA: SOME CONTEMPORARY CHALLENGES

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ABSTRACT

We must take care that there should never be politics without principles, Pleasure without character, Commerce without morality, Wealth without work, Science without humanity and worship without sacrifice. Human aspirations for progress can only be realized by agreed values and standards applying to all people and institutions at all times. *Undoubtedly*, prior importance should be given to the education to equip with rudiments of basic principles and law of land. We mean to say that the legal education should be fashioned in tune with the contemporary changes taking place in the national as well as international sphere. With technological advancement and liberalization of economy there has been a mushrooming of law colleges without any significant thought being put behind the problem of dearth of faculty and content of legal education imparted in such institutions. The character of a law school determines the character of the bar and the bench. While National Law schools and many private law colleges have been successful in imparting education commensurate with changing global trends and to a great extent evolving social conditions however admission to such institutions has many barriers *inter alia* one's position of privilege in society that determines the capability to get admission and sustain education in such institutions of legal learning. Economic liberalization and changing social condition brought to fore the deplorable condition of legal education in India. *Moreover*, the National Education 2020 proposes sweeping changes including upgrading the legal education at global level as. Keeping all things in mind, this paper aims at analyzing legal education in India as it stand today.

Key Words: Legal Education in India, National Law Schools, Private Law Colleges, Standard of Legal Education, Bar Council of India and NEP 2020.

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General

Legal System of a country reflects advancement of the civilization of the society as a whole and the individuals in particular in that Nation. And the substance of the legal system in a country as a matter of fact rest upon the members of the legal profession, as Jurists and Legal luminaries and Judges who uphold, develop and strengthen the legal system of the land. The strength of the legal system certainly remain on the bedrock of the legal education which decides the quality of legal profession and judiciary of a country. Legal education imparted and adopted in a society sounds the socio-economic background of the State.²Law, legal education and development have become inter-related concepts in modern developing societies which are struggling to develop into social welfare states and are seeking to ameliorate the socio-economic condition of the people by peaceful means. The same is true of India. It is the crucial function of legal education to produce lawyers with a social "vision in a developing country like India."³

The policy of the legal education is determined by the guiding philosophy of the Indian Constitution reflected in the Preamble, Fundamental Rights and Directive Principles of State Policy. *Therefore*, the legal education policy must be molded in accordance with such avowed constitutional philosophy so as to give affect to the constitutional ideology.

Laws for regulating professional legal education in India derive their source from entry 66, 67 and 78 of List 1, Schedule VII of the Constitution of India. The Bar Council of India (BCI) established under the Advocates Act, 1961 regulates legal education and law practice in India. To promote legal education and to lay down standards of such education in consultation with the Universities in India imparting such education and the the State Bar Councils.⁴ In addition to setting standards for legal education it also grants recognition to universities offering courses in Law.⁵

Legal Education in India-Conceptual Aspects

Legal education since the 14th law commission report has seen many reforms aimed at bringing the standards at par with international standards and changing social conditions. The 14th Law

²S.V.M. Kamasal, "Insights into Legal Education" in Prof. G. Manohar Rao and Prof. K. Shrinivas Rao *et.al.* (eds.), *Legal Educacion in India Challenges & Perspectives 203-04* (Asia Law House, Hyderabad, 2017).

³Prof. A. Lakshminath, "Legal Education in India-Contemporary" *id* at 3.

⁴Section 7(1) (h), The Indian Advocate Act, 1961.

⁵Section 7 (1)(I), *supra*.

Commission Report of 1958 on Reform of Judicial Administration also observed that, "...the absence of juristic thought and publications in our country is no doubt due in part to our defective system of legal education which fails to recognize the study of law as a branch of learning and as a science. Nor is the education in law imparted at universities such as to fit the law-graduate for the profession notwithstanding its supposed bias in favour of a professional career."⁶The 184th Law Commission Report on Legal Education and professional training and proposals for amendments to the Advocates Act, 1961 and the UGC Act, 1956 highlighted that "...globalization, deregulation and privatization have given rise to 'new challenges and recommended that specialized areas of law like intellectual property, corporate law, human rights, ADR and international business transactions have to be introduced to law schools."⁷ The said perspective was also shared by the National Knowledge Commission in its report of the working group on legal education. Early references to the concept of a National Law School in India can be found in a report in 1964 prepared by a committee set up by the Delhi University."⁸The BCI with an objective of ensuring the best minds taking up law at the right age in 2016 issued a circular¹³ by which Clause 28 in Schedule III of Rule 11 of the Rules of Legal Education, 2008 (that was earlier withdrawn in 2013), was introduced for providing a maximum age limit of as low as 20 years for taking admission in the integrated Bachelor of Law degree programme. The said circular was challenged before the Hon'ble Supreme Court wherein the operation of the impugned circular had been stayed 14 and at present there is no age restriction on admission to LLB Courses. Even after half a century since India attained the independence, it is really moanful to note that the legal education has not received its due recognition and appreciation what it infact deserves and needs which ultimately resulted in tardy progress of legal education. Apparently the support and assistance received by the legal education is in fact negligible and hardly appreciable when compared to other disciplines of studies. A very important factor in ensuring equitable access to legal education is diversity. With the increase in number of National Law Schools and private universities, the admission to such institutions is restricted to the elite or those with adequate financial resources. One of the intrinsic goals of legal education today especially in 2021 has been to meaningfully pursue the goals of social justice enshrined in our constitution however the degree of representation of students from socially and economic deprived diverse sections of the society is appalling and

⁶ Aakarsh Kamra and Dr. Garima Tiwari, "Perspectives and Challenges on Legal Education in India" 49 (1) IBR 21-22 (2022).

⁷ Law Commission of India, *184th Report on The Legal Education & Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956* (December 2002).

⁸ *Supra* note 6.

a matter of great concern. An admission to a five-year law course in a about 23 National Law school today costs around 15 lakhs and the figure is even higher in case of private law schools. Lack of a good faculty has been one of the most concerning barriers to legal education. The predicament has many layers to it. With the mushrooming of law schools, an abysmally low number of good law teachers are employed in a majority of law schools. Legal professionals who have had a stellar legal education and academic record are often absorbed by Law schools offering high pay scales and career growth prospects. With infrastructure limitations and lack of funding many law Schools are unable to employ credible academicians to impart quality legal education to their students. Further, it is often seen that law school while employing teachers from the upper caste strata of society are unable to sensitise them to the individual circumstances of students belonging to the socially and economically backward classes causing an irreversible sense of alienation amongst such students.⁹

Legal Education: Inter-Generational Skills

Since antiquity, the humanity has revered education as the ultimate power to acquire supremacy in all sphere of life. Human aspirations for progress can only be realized by agreed values and standards applying to all people and institutions at all times. We must take care that there should never be politics without principles, Pleasure without character, Commerce without morality, Wealth without work, Science without humanity and worship without sacrifice.¹⁰Undoubtedly prime importance should be given to the basic legal education to equip an advocate or legal professional with rudiments of law of the land, simultaneously the legal education should be fashioned in tune with the contemporary changes taking place in the national as well as international spear. It is a fact that the legal education in India as moulded to some extent in this direction, but much more radical and significant changes have to be affected in the spear of Indian legal education so as to enable it to meet the challenges for the present world.¹¹While structuring the course of study of legal education, multiple factors must be comprehensively kept in mind by the makers of the policy of the legal Education unlike other professional educations. Legal Education has its own glaring mark of distinction, therefore in order to make the legal education a perfect one and fool proof, the policy makers must act vigilantly and judiciously in this regard.¹²Interdisciplinary in legal education can be traced back to Upendra

⁹Supra at24-26.

¹⁰Ashok Mehta, "Education" 13 Indian Bar Review XLIII (2) 2016.

¹¹Supra note 2.

¹²Id.

Baxi's, 'Notes Towards A Socially relevant Legal Education' the earliest authoritative piece that one can refer to. The report was transformational, especially in the Indian context, as it led to many reforms in legal education. Such changes are evident in the various Law Commission Reports, especially the 184th Law Commission Report on Legal Education & Professional Training, the Advocates Act, 1961, University Grants Commission Act, 1956, and other imminent policies that support the progression of interdisciplinary, paving the way for the renaissance of juristic learning.¹³ The 184th Law Commission Report is an important starting point that sets the pace for engaging with interdisciplinary research in legal education, which elaborates and stresses the need for competence and social responsibility, invariably demanding the engagement of law with interdisciplinary teaching, research and extension.

LEGAL EDUCATION VIS-A-VIS NEP 2020

Dr. S. Radhakrishnan presiding over the University Education Commission stated, "In our country, we have eminent practitioners and excellent judges. The law has also given us great leaders and men consecrated to public service. Most conspicuous of these is Gandhi ji. We have no internationally known exponents of jurisprudence and legal studies. Our colleges of law do not hold a place of high esteems either at home or abroad, nor has law become an area of profound scholarship and enlightened research."

The National Education Policy 2020 proposes sweeping changes including opening up of Indian higher education to foreign universities, dismantling of the UGC and the All-India Council for Technical Education (AICTE).¹⁷ The Policy is believed to have been built on the foundational pillars of Access, Equity, Quality, Affordability and Accountability.¹⁸ The Policy also prescribes for Higher Education Commission of India (HECI) which will be set up as a single overarching umbrella body for higher education, excluding medical and legal education. Clause 20.4 of the Education policy provides, "Legal education needs to be competitive globally, adopting best practices and embracing new technologies for wider access to and timely delivery of justice. At the same time, it must be informed and illuminated with Constitutional values of Justice - Social, Economic, and Political and directed towards national reconstruction through instrumentation of democracy, rule of law, and human rights. The curricula for legal studies must reflect socio-cultural contexts along with, in an evidence-based manner, the history of legal thinking, principles of justice, the practice of jurisprudence, and other related content appropriately and adequately. State institutions offering law education

¹³Upendra Baxi, *Notes Towards a Socially Relevant Legal Education*, 5(1-3) J. BCI. 1-33 (1976).

must consider offering bilingual education for future lawyers and judges in English and in the language of the State in which the institution is situated."¹⁴

The BCI recently notified the Legal Education Rules which bring in some significant changes to the existing framework of postgraduate law courses. A step that has the potential to impact the most is the abolition of one year LL.M which was introduced in 2013. The decision to reintroduce the two-year program could have been contemplated upon sincerely with an understanding that in most Institutions the content of the course is primarily an extension of the bachelor's program only with little or no in-depth study and most of the topics are a mere repetition of what has already been covered at the graduate level. Scholars have often questioned the role of BCI in regulating higher legal education. It is believed that a master's degree is wholly relevant a criterion for being enrolled as an Advocate. Being an academician entails skills that require knowledge of different types of research techniques. Late Prof. Shamnad Basheer advocated the importance of effective consultation and effectively arguing that BCI is neither constitutionally allowed nor institutionally competent to regulate the full spectrum of legal education.

Conclusion

The rapid expansion of cyber technology undoubtedly brought about marvelous and unforeseeable changes in every walk of individual and institutional activities where by even the sphere of legal system is also not left untouched by the cyber technology. However at present the legal education is not sufficiently updated in accordance with the fast developing cyber technology. Globalization as present is a universal and an inevitable phenomenon where from no State can isolate itself from its impacts. Globalization obviously as its pervasive and universal affect not only on socio economic relations it will have its influence even on the legal system of a country. It is honestly felt that when a comparative and critical survey of Indian legal education is made with legal education policy adopted and practiced in other countries, India has to travel a long distance to attain the goals of producing a perfect, well trained and a distinct legal luminary, professional and a judge as many more significant changes have to be brought about through the updated policy of legal education. Therefore it is hoped that though it is high time, the legal education which, infact till now is Cinderella of state and society will receive due recognition and flourish with flying colours to meet manifold and divergent challenges of day Therefore it hardly needs any special emphasis that the present legal

¹⁴ Govt of India. MHRD, *National Education Policy 2020*.

education remains an outdated and ineffective one if the state remains blind to the fast emerging trends of globalization. The effects of globalization certainly requires changes in the legal system at the gross root level so as to arm the legal professional and all other connected legal personnel to meet successfully the challenges faced in the sphere of legal field. The legal education honestly, to add in this context, requires to give more and more practical orientation to the students of law, as such the curriculum of law must be devised in this direction suitably and the final year law students should be exclusively concentrated to the practical instructions in the subjects of law. Such curriculum must be given uniformity at the national level.

