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REVAMPING THE LEGAL EDUCATION IN INDIA: NEED OF THE HOUR

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ABSTRACT:

Lawyers and advocates are social engineers who strive for the betterment of society, whereas judges are legal reformers who deliver law and justice in accordance with the modern world and serve as society's backbone in balancing peace, justice, and equality in our country. But the question is whether the legal profession's fundamental education, that is, the legal education offered to them, is adequate and flawless in India? Are the law graduates efficient before beginning their career? Is legal education in India adequate to compete on a global scale? Obviously, the answer is no. The reason for selecting this topic is that the legal education in India is inadequate and there is a need for revamping it. This article will provide some proposals for improving legal education so that our Indian attorneys can compete with those in other advanced countries. This transformation in legal education is in the hands of the Bar Council of India (BCI) and the University Grants Commission (UGC), the two key entities shaping legal education in India. As a result, the present difficulties encountered by law students must be considered and redesigning our legal education is needed to produce skilled law graduates. Apart from these two bodies, a National Council of Legal Education and Research (NCLER) concerning Legal Education and Research which has to be apex regulator of legal education and profession replacing the two bodies must be formed to revamp the existing Legal education.

Keyword: *Bar Council of India, University Grants Commission (UGC), Legal education, National council of Legal Education and Research (NCLER), Law graduates, Law institutions.*

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INTRODUCTION

Judges and Advocates are great professions, the undergraduate level legal education is the foundational education for both. Many great leaders and social reformers have come from this platform in India, like Mahatma Gandhi, Dr. B.R.Ambedkar, Rajaji, and Motilal, however this legal profession is still not fully satisfied, even after so many changes. It sometimes appears that legal education is valued less in India compared to other countries.

Malcolm³ said that

“And just because of you have colleges and University doesn't mean you have education”⁴

His words are appropriate for Indian legal education. That is, law schools and universities alone cannot produce smart and skilled law graduates; a robust legal education system is required to produce good law graduates. Despite the recommendations of numerous committees, legal education in our country is not up to the standard and lacks the necessary quality to develop a qualified graduate ready to face the real world.⁵

HISTORY OF LEGAL EDUCATION IN INDIA

In ancient times, law was regulated by the King with the assistance of his counselors. The Rule of Dharma and Karma was in effect at the time. Later, during British control, law was integrated into the curriculum of the universities of Calcutta, Madras, and Bombay in 1857, initially as a two-year study. The pupils received direct instruction and lectures solely, with no practical knowledge offered. Legal education has been chastised for not prioritizing natural sciences or other social sciences. As a result, legal education has lagged behind other subjects in terms of progress.⁶

The Advocates Act of 1961 later controlled the field of practice but made no modifications to the level of education delivered. The founding of the National Law School of Indian University in Bangalore in 1985 brought in educational advances, such as the infusion of practical knowledge through moot court, court visits, and case-based study. Though these system are

³ Former American Minister.

⁴ <https://www.goodreads.com/quotes/364191-and-just-because-you-have-colleges-and-universities-doesn-t-mean>.

⁵ Sanjit Kumar Chakraborty and Tushar Krishna, “Promises and Prospects of Legal Education in India in the Context of the New Education Policy: A Reality Check”, Volume 9 Issue 1 (2021) Retrieved from (Jul. 29, 2024, 10:04 AM) <https://journals.sagepub.com/doi/full/10.1177/23220058211065983#fn21-23220058211065983>.

⁶ Ibid.

included in legal education there is more disparities and challenges within the country which hinders the development of the legal education,

BCI AND UGC MAJOR INFLUENCE OF LEGAL EDUCATION

Before providing recognition to an institution that provides legal education, the UGC expert committee inspects the infrastructure, professors, and the so on. Both the UGC and the BCI recognize legal institutions when they apply for it. The UGC and BCI have the authority to decertify any university institution that fails to meet the requirements established by both the regulatory authorities. The BCI has the authority to set regulations governing the standards of legal education to be followed by universities in India, as well as to examine institutions for this purpose.⁷

Law Commission recommends

“...Bar Council of India can lay down minimum standards necessary for courses for students who will come into the legal profession but not in respect of other law courses which do not lead to a professional career. UGC can prescribe higher standards”⁸

” ...UGC and BCI to introduce a system of accreditation of law colleges. Section 7(1)h⁹ should be amended to enable the Bar Council of India to promote excellence in Legal education for the purpose of the accreditation system”¹⁰

Under advocates Act, 1961 limited powers are allocated to BCI to promote legal education but it plays a vital role in empowering legal education.¹¹ In **V.Venkata Sivakumar V. Bar Council of India**¹² A petition was put forward seeking the BCI to form a panel of legal education experts to investigate the petition's ideas for eliminating malpractices in the legal education system. But the petition was disposed of and directed the petitioner to make suggestions directly to the BCI. In the areas of Postgraduate and Research the UGC plays a vital role. It establishes teaching standards; nevertheless, the UGC only has a member of a committee to make recommendations, and there is no distinct Council to look at legal education.

⁷ section 49(1) of advocates Act 1961.

⁸ 184th Law Commission Report on Legal Education & Professional Training and Proposals for Amendments to the Advocates Act, 1961 and the University Grants Commission Act, 1956, 2002 retrieved from (Aug. 01, 2024, 08:22 AM) https://lawcommissionofindia.nic.in/cat_legal_profession/.

⁹Section 7(1)h of Advocates Act,1996 - 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.

¹⁰ ibid.

¹¹ ibid.

¹² W.P.No.1213 of 2014 11th Aug., 2014.

The National Knowledge Commission (NKC) in its report opined the following “...*In the last three decade,... the BCI, by virtue of its Resolution, Rules and Regulation, has taken over the entire body of power in relation to Legal education which is not the intention of Advocates Act, 1961, which is a legislation under entry 77 and 78 of list 1 schedule VII of constitution of India. The BCI, under its power to grant recognition to universities for the purpose of enrolment of law graduates has been also dealing with inspection, affiliation or disaffiliation of various Law colleges granting annual affiliation for permanent affiliation etc... It has also been laying down conditions for establishment of Law schools, buildings, appointment of faculty and a variety of other matters in which the faculty and other players have not been allowed to have any effective role.*¹³ *These powers were expanded by BCI under Resolution Rules and Regulations as stated above, though such extension of powers is not permitted by Advocates Act, 1961.*”¹⁴

As a result, these two statutory authorities play a critical role in regulating legal education and its framework.

NEED OF A SEPARATE REGULATORY BODY FOR LEGAL EDUCATION

In 1936, Dr. B. R. Ambedkar suggested the institution of a Council of Legal Education to regulate and conduct legal examinations. Since the Bar Council is responsible for overseeing and regulating the field of practice of advocates, it cannot successfully oversee both the field of practice and legal education together, thus a separate Council for Legal Education is required.¹⁵

The insistence of a separate authoritative body to regulate legal education is observed in **Bar Council of India v. Board of Management Dayanand**¹⁶. The high court declared that the Bar Council of India has no involvement in legal education and that its function is restricted to regulating the legal profession with regard to enrolment of advocates and continuance of the profession. Hence the Bar Council of India will not be able to issue any recommendations on legal education or about people who will be teaching law and the qualification of faculties law

¹³ Retrived from <https://youngarenaligators.blogspot.com/2017/03/bci-and-its-role-in-development-of.html>.

¹⁴ National Knowledge Commission Report 2005 (Retrieved from 86th Report of the Law Commission of India on Promotion Legal Education and Research under Advocates Act,1961).

¹⁵ Law College Magazine, Bombay, 1936 at 15 (14th Report of the Law Commission of India on Reforms of Judicial Administration.1958 Retrieved from (Aug. 9, 2024, 1:54 PM) https://lawcommissionofindia.nic.in/cat_supreme_court_and_high_court/).

¹⁶ CASE NO. Appeal (civil) 5301-5302 of 2001 on 28 Nov., 2006.

colleges.

According to opinions shared by the stakeholders at meetings held in Delhi, Kolkata, Bangalore, and Bhopal, the nation's legal education system needs to be comprehensively regulated by a body known as the National Council of Legal Education and Research with regional branches. To uphold the rule of law, audit and assess legal research and teaching has to be done by this body.¹⁷

CHALLENGES OF LEGAL EDUCATION IN INDIA:

1) Lack of Uniformity:

There is no uniformity among the legal schools and institutions in India. The differences between regular law schools and NLUs are significant. For government and private colleges in many states, a 12th grade pass is sufficient, with the CLAT serving as the admission test for NLUs and certain private colleges. It could be challenging for individuals to get admitted to an NLU to keep up with the curriculum due to the language divide and a lack of English fluency. The CLAT is now conducted only in the English language which the students from the regional medium of instruction find it difficult to get into the NLU. Furthermore, the cost of an NLU education is high, and not everyone can afford it without taking out student loans.

In *S. Tharani Kirthika vs The Registrar*¹⁸ The petitioner was not allowed to join 5 years integrated law course by the University as the petitioner +2 was not in regular stream. But in many universities students who do their +2 privately are allowed for the admission law courses. Madras High Court has decided that persons who have done +2 in private are also eligible for enrollment and only the law degree obtained should be genuine¹⁹. However, several private universities still award legal degrees despite the fact that students do not attend classes on a regular basis. Many institutions, on the other hand, maintain flawless 75% attendance with regular classes.

Apart from the admission process, the medium instruction in NLU's and State universities

¹⁷ 86th Report of the Law Commission of India on Promotion Legal Education and Research under Advocates Act, 1961 retrieved from (Aug. 2, 2024, 11:30 AM) https://lawcommissionofindia.nic.in/cat_legal_profession/.

¹⁸ W.P.No.18881 of 2011 & M.P.No.1 of 2011(Retrieved from <https://indiankanoon.org/>).

¹⁹ Indian Express dated Sep 24, 2023 Retrieved from (Aug. 06, 2024, 05:12 AM) <https://indianexpress.com/article/education/no-bar-on-enrolling-law-graduates-who-cleared-class-10-12-exams-privately-madras-hc-5274171/> & Times of India dated 23rd Jul 2018 retrieved from <https://timesofindia.indiatimes.com>.

differs. In State Universities the regional languages are allowed as a medium of instruction whereas NLU and private institutions do not follow it. Though knowledge in regional languages is necessary for Trial cases or High Court. However, when the medium of instruction is in regional language the educational efficacy suffers significantly. The majority of laws, court decisions, statutes, books, and other materials are written in English. There aren't enough books and source materials in regional languages to help students deal with these limitations. So, the student not only lacks a solid understanding of the subject but also does not have the necessary communication skills for carrying out their work well. The BCI has made an effort to correct this by declaring that to be certified for enrolment as an advocate, the language of instruction must be English; If not, it must adhere to the bar exam requirements and a compulsory paper of English has to be cleared during the course.²⁰

The method of education has a significant impact on how students learn. Students who want to pursue a law degree in their vernacular language of instruction are judged as less skilled than English-medium students on both a performance and mark basis. As they continue to complete their legal education in their native language, they are not fluent in English, which is crucial for practicing as an advocate in court. Therefore, it must be mandated that English be used as the primary language of teaching in law institutions, allowing students to begin their training in the language as soon as they enroll. The lack of standardization leads to diversity in legal education and the quality in law graduates who pass out of the institution. Some are appropriately educated, while others lack even fundamental abilities.

2) Unveiling the Age restriction

By establishing an age restriction for legal education, the Indian Bar Council made the proper first move. The bar council fixed the upper age limit as 20 years for 5 years integrated law course and 30 years for 3 years courses, then it changed the age restriction to 22 years and 45 years for the sake of promoting public interest but the Supreme Court, which is the apex court, directed the BCI to reconsider the upper age limit for admission of LLB courses in **Rishabh Duggal Vs BCI**.²¹

The caliber of legal education is being degraded by putting a 60-years old pupil in the same

²⁰ Supra at 3.

²¹ <https://www.indialegallive.com/constitutional-law-news/supreme-court-news/sc-asks-bci-to-reconsider-its-decision-prescribing-llb-age-limit-61943>.

class where a 25 years old student Studies. These courses must have a significant upper age limit limitation. The Law Commission additionally suggested abandoning three years of LLB courses in favor of simply five years and of JD (Juris Doctor) program, as done in Australia, England, and America.²²

3) Inadequate Practical Experience

In **V Sudheer v. Bar Council of India**²³, it was established that a three-year course of study is sufficient for enrollment and that pre-enrollment training is not as important as the bar council determined. However, internship training is required before becoming an advocate. Law students will take their studies more seriously as a result of this.

It was observed in a petition filed in **Satheesh Kumar V. Mahatma Gandhi University**²⁴ to give training in colleges notwithstanding BCI description and that class hours, moot courts, tutorials, and seminars must be finished before semester assessment. Mere theory-based knowledge obtained without practical knowledge is futile. Actual application is needed. It is vital to give mandatory training to young advocates entering the courtroom.

4) Lack of amenities

The petitioner in **Ramesh Kumar v. State of Tamil Nadu**²⁵ petitioned the court requesting the basic amenity of mess. However, it was responded that the requirement for opening a mess was that the early mess expenditure had to be borne by the hostel residents by splitting method at the time of every year admission itself, to prevent complications in monthly settlement. Finally, the writ petition was dismissed.

Students with low incomes continue to encounter difficulties in paying and managing their costs for basic necessities, and it is especially difficult to pay the yearly mess fees in the year of admission. In such circumstances, the university or college must take students' issues into account and not curb their study at the outset. Some colleges have excellent facilities and infrastructure, but others lack amenities such as hostels, canteens, and meal halls. Many government law colleges in the south do not have men's hostels till date.

²² Supra 14.

²³ Retrieved from <https://indiankanoon.org/doc/1029236/>.

²⁴ WP(C). No. 28492 of 2015 (J) on 23 Sept., 2015 (Retrieved from <https://indiankanoon.org/>).

²⁵ W.P.No.2994 of 2009 and M.P.Nos.1 and 2 of 2009 (Retrieved from <https://indiankanoon.org/>).

5) Quality of Education

Preparing professionals who can play significant leadership positions in society, such as researchers, politicians, judges, government officials, corporate legal advisers, and civil society activists, is the stated purpose of legal education and those with the capacity to comply with the barriers and complexities of internationalization where the nature and practice of law undergo a paradigm shift.²⁶

Priority should be given to the quality of legal education. The issue is at the institutional level, since even while the number of law schools in India is increasing, the quality of education is not. The professors should be more focused on providing greater value to students.²⁷ The experts' perspectives on institutionalizing legal education were various. While some agreed on value-based and skill-enhancing courses with an emphasis on legal tech to improve education quality, some advised investing in moot courts to improve soft and hard skills required of every legal practitioner.²⁸

The private university prioritizes both teaching and research. It additionally holds the authority to determine the course pattern, as well as the inclusion of needed facilities in the university's curriculum. However, college linked with a state university, is more conventionally oriented, and hence its emphasis is mostly on teaching. It has constraints and does not have the same freedoms as a private university.²⁹

One of the foremost fundamental difficulties confronting Indian legal education is an outmoded curriculum that frequently fails to keep up with the fast-expanding legal world. Many law schools continue to teach courses and materials that are no longer relevant to the present legal

²⁶ The National Knowledge Commission's 2008 retrieved from (Sep. 9, 2024, 10:06 AM) <https://journals.sagepub.com/doi/10.1177/2322005820946699?icid=int.sj-full-text.similar-articles.3#fn34-2322005820946699>.

²⁷ Retrieved from (Sep. 19, 2024, 7:10 AM) <https://bwlegalworld.businessworld.in/article/Revamping-Legal-Education-The-Law-School-Perspective/26-06-2023-481839/#:~:text=The%20Supreme%20Court%20recommended%20the,Law%20School%20Perspective%E2%80%9D%20took%20place.>

²⁸ BW Legal World- Future of Legal Education Summit 2023, a powerful session on “Revamping Legal Education with The Law School Perspective” retrieved from (Sep. 19, 2024, 8:45 AM) <https://bwlegalworld.businessworld.in/article/Revamping-Legal-Education-The-Law-School-Perspective/26-06-2023-481839/>.

²⁹ K. Rajashree, Chetan Singai & Shimreichon Awungshi Shimray, “Advancement in Legal Education in India: Challenges and Opportunities for Interdisciplinary Research:; Asian Journal of Legal Education Volume 8, Issue 1, Jan 2021, Pages 66-78 © 2021 The West Bengal National University of Juridical Sciences, Article Reuse Guidelines (Sep. 19, 2024, 9:12 PM) (<https://doi.org/10.1177/2322005820946699>).

environment, leaving students unprepared for the ever-evolving nature of a legal career.³⁰

Furthermore, rather than motivating students to enhance their problem-solving and critical thinking abilities, Indian law schools often prioritize rote memorization and retention of legal provisions. This method of learning might impede students' capacity to adjust to the ever-changing needs of the legal field and may result in a gap between the academic preparation they receive and the real-world realities of legal practice.³¹

6) Teaching and Research

Clearing UGC NET in addition to a two-year PG in law is required for teaching in law institutions. Teachers are those who encourage pupils to look beyond textbooks and guide them throughout their course. Law professors are paid and given perks in a similar manner as instructors of the arts and sciences. Pay and allowance to them is at par with teachers in Arts and Science. Till date Law course is included as a discipline in the arts streams rather than being recognised as a separate professional course. Professor remuneration at private institutions does not adhere to UGC standards. Due to their inexperience, the majority of the academics hired by private institutions get minimal pay in exchange for training.

Moreover, an advocate must not be a full-time employee of any person, government, firm, corporation, or concern³². Upon accepting such employment, the advocate must inform the relevant Bar Council and must stop practicing during that time. As a result, once they begin full-time teaching, their registration as advocate under BCI is canceled. Non-practicing allowance is not offered to Advocates who desire to conduct postgraduate studies and immerse themselves in academics.

Long-term research cannot be supported by the level of research facilities available to an Indian law faculty. Financial support for academic staff to conduct full-fledged research in conformity with international standards appears to be lacking. Though National Educational Policy (NEP) 2020 promotes the emergence of more private institutions, the growth of private law institutions

³⁰ (Sep. 19, 2024, 10:10 PM) <https://www.linkedin.com/pulse/challenges-indian-legal-education-addressing-issues-bridging#:~:text=Indian%20legal%20education%20has%20traditionally,their%20abilities%20as%20legal%20pofessionals.>

³¹ *ibid.*

³² Rule 49 of the Bar Council of India Rules.

leads to human resource exploitation. Teachers are forced to conduct non-teaching duties for the institutions' daily operations and are even denied their allotted salary.³³ Unrecognized benefits and salary make teaching the least desirable alternative for people who wish to enter the profession. Even if they pursue teaching law with a strong desire to do so, they are unable to properly carry out their duties of educating students while dealing with these challenges.

7) Importance of insisting the professional Ethics:

By putting students' interests at the very core of all decision-making, NEP 2020 seeks to provide them with high-quality education that is relevant to them, as well as the skills they need to deal with an ever-evolving world. It anticipates a new age of cultural growth with the realization of a dynamic and intricate information society. But a student centric view of education alone cannot breed good lawyers inclusion and insisting on professional ethics in every part of academics needed. Law students must know the value of their profession. But many students often without knowing the core value just join the college for the tag they get before their name. Conduct that violates ethics in legal services can have serious implications. Furthermore, ethical breaches can result in the loss of clients', colleagues', and the public's trust. Professional misbehavior can have legal and financial consequences. Building a solid and moral profession of lawyers requires both professional ethics and legal education. Legal education can generate capable and morally responsible lawyers who respect the rule of law and justice by building a solid foundation of legal knowledge. To develop ethical behavior throughout a legal practitioner's career, it is critical that law schools, professional bodies, and regulatory bodies work together.

CONCLUSION:

To stay up with globalization, the legal education curriculum must be regularly changed to reflect the realities of the time and to attract bright students to law schools. And it is crucial to increase the bar for legal education so that it is on level with other professional programs. The highly regarded Indian NLU must receive financial assistance from the union government, much like AIIMS and IIT.

Legal education should not be overlooked since it impacts everyday life. Law schools should be established under state legislation and serve as examples for other law institutions so that

³³ Supra 3.

they may improve their standards in terms of research, curriculum, faculty, and other areas. Senior attorneys in a country are also required to serve as positive role models for recent law graduates³⁴. Therefore, it is essential to provide high-quality legal education in a nation with more than 1000 law schools and colleges with 1.5 lakh law pupils who graduate from these institutions each year in order to produce future advocates and judges who will uphold the law.

SUGGESTIONS ON IMPROVING LEGAL EDUCATION:

The court in **M Santhosh Antony Vareed V. Register of Madras**³⁵ denied a writ suit challenging the age requirement for a three-year LLB degree, noting that Western countries prioritize admitting rank holders with higher grades to law schools. Making legal education meaningful is necessary. Law students should appreciate the value of their field and not only get a degree to add to their name.

William Wordsworth wrote “**child is the father of man**” likewise law students the future of Legal Profession, Judiciary and Rule of Law. Therefore, legal education, which was previously disregarded, has to be given the highest attention. Legal education requires it to be on par with the other professional courses. The following suggestions are made regarding quality law education:

- a) While legal classes are taught as part-time courses in shifts and in a few universities, law classes must be taught like ordinary college classes on the model of the National Law School, and attendance must be made necessary.
- b) Class hours have to be held in two sessions - morning and afternoon in which practical classes with daily attendance are made necessary.
- c) Higher scores, such as a minimum 60% score and entrance exams would be required for entry into law schools so that proportionally more capable, bright, and clever students would enroll in the program, improving the standard and competence of the legal profession. Even if greater scores are not enough to fill all the places in law institutions, such seats do not necessarily need to be filled by applicants with lower marks. This would help the law schools develop a respectable reputation.
- d) It is necessary to appoint qualified lecturers and professors on a full-time basis.

³⁴ 86th Report of the Law Commission of India on Promotion Legal Education and Research under Advocates Act, 1961.

³⁵ W.P.No.14877 of 2009 and M.P.Nos.1 & 2 of 2009 on 9 Sept., 2009.

- e) There must be adequate infrastructure, including decent libraries, and colleges that do not have the facilities should be shut down. The establishment of new institutions is unnecessary given the abundance of existing law schools.
- f) A five-year integrated course was developed to replace the three-year degree; hence the three-year course must be phased out.
- g) Standardizing legal education is crucial for keeping up with globalization, evolving patterns, and challenges in the profession by revising the course curriculum.
- h) Judges of the Supreme Court and High Court, Senior Advocates, Academicians, and other jurists must be a part of the formulation of the curriculum as well as participate through lectures, training sessions, and other activities.
- i) Moral and ethical principles must be lectured as topics and instilled in students' minds since the legal profession unavoidably requires them.
- j) In order to connect with the general public, law school learners must participate in experiential learning opportunities such as court visits, social services, legal aids and legal seminars.
- k) Police officers, forensic officials and various law related departmental experts can also be involved in legal education by inviting them to provide lectures and seminars on investigations into crimes and prosecution. The engagement of them would add a more practical view of learning.
- l) It is envisaged that through adopting the four-year undergraduate curriculum, the NEP's emphasis on providing a thorough, multidisciplinary, liberal education will be realized.
- m) Apart from BCI and UGC, there must be a National Council of Legal Education and Research (NCLER) formed to be the highest body to make sole decisions concerning matters regarding legal education.